

MAINE—OZONE—Continued

Designated area	Designation		Classification	
	Date ¹	Type	Date ¹	Type
Oxford County (part)	May 27, 1997	Unclassifiable/Attainment		
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Somerset County Area				
Somerset County (part)	May 27, 1997	Unclassifiable/Attainment		
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *

¹ This date is November 15, 1990, unless otherwise noted.

* * * * * “Belknap County” and “Sullivan County” to read as follows: **§ 81.330 New Hampshire.**
 2. In § 81.330 the ozone table is amended by revising entries for * * * * *

NEW HAMPSHIRE—OZONE

Designated areas	Designation		Classification	
	Date ¹	Type	Date ¹	Type
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *
Belknap County	May 27, 1997	Unclassifiable/Attainment		
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *
Sullivan County	May 27, 1997	Unclassifiable/Attainment		
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *

¹ This date is November 15, 1990, unless otherwise noted.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 600 and 648

[Docket No. 960612172-7054-02; I.D. 011697A]

RIN 0648-A121

Fisheries of the Northeastern United States; Technical Amendment

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

ACTION: Final rule; technical amendment.

SUMMARY: NMFS issues this final rule to correct and clarify 50 CFR part 648, which contains regulations implementing the fishery management plans (FMPs) for: Summer flounder, scup, and black sea bass; Atlantic sea scallops; Northeast multispecies; Atlantic surf clams and ocean quahogs; Atlantic mackerel, squid, and butterfish;

and Atlantic salmon. During the consolidation of these FMPs into one part (50 CFR part 648), unintended omissions and changes were made. This document corrects those errors.

EFFECTIVE DATE: March 24, 1997.

FOR FURTHER INFORMATION CONTACT:

Mary M. Tokarcik, Fisheries Management Specialist, 508-281-9326.

SUPPLEMENTARY INFORMATION: On July 3, 1996 (61 FR 34966), NMFS published a final rule that incorporated six separate CFR parts (50 CFR parts 625, 650, 651, 652, 655, and 657) into 50 CFR part 648. Subsequently, regulations implementing the scup and black sea bass FMPs were added to this part. In addition, 50 CFR parts 600, 601, 602, 603, 605, 611, 619, 620, and 621 were consolidated into 50 CFR part 600. These consolidations were called for under President Clinton's Regulatory Reinvention Initiative for comprehensive regulatory reform. Because 50 CFR part 648 was prepared concurrent with the implementation of Amendment 7 to the Northeast Multispecies Fisheries Management Plan, many changes from the proposed rule to the final rule implementing Amendment 7 were not included in the consolidated document. Also, errors occurred during the consolidation of 50 CFR parts 600 and

648 in references and dates and through unintended omissions and inclusions. This rule makes these corrections and clarifies sections of the regulations as follows:

In 50 CFR 600.10, the definition for “area of custody” is added.

In § 648.2, the definition for “Multispecies Monitoring Committee” is revised to clarify that no more than two state representatives can be appointed from all of the affected states.

In § 648.2, the scientific name for redfish is changed to *Sebastes fasciatus*.

In § 648.2, the definition for “Prior to leaving port” is revised to clarify when a vessel must begin a days-at-sea (DAS) trip under the call-in requirement. Also, the phrase “with respect to the call-in notification for NE multispecies” is revised to clarify that the definition is also applicable to scallop DAS vessels.

In § 648.2, the definition for “Target Total Allowable Catch” is put in alphabetical order.

In § 648.4(a)(1)(i)(E)(2), the assumptions for establishing net tonnage (NT) and gross registered tonnage (GRT) for vessels that are not required to be documented are in error and are removed.

In § 648.4(a)(6)(i)(B)(1), the deadline for application for the scup moratorium

permit is incorrect and is changed to "September 23, 1997."

In § 648.4(c)(2)(ii) (A) and (B), the reference to "May 1, 1996," is incorrect and is changed to "July 1, 1996."

In § 648.7(f)(2), the last sentence is removed to reflect that annual reports of fishing vessel log reports are not required.

In § 648.9(e), the reference to paragraph "(a)(1)" is corrected to read "(a)."

In § 648.10, the headings for the table containing the coordinates for the VTS Demarcation Line are corrected.

In § 648.10, all references to the call-in requirements for charter/party vessels are removed, paragraph (e) is removed, and paragraph (f) is redesignated as paragraph (e). The charter/party vessel call-in requirements proposed in Amendment 7 to the Northeast Multispecies FMP were disapproved. The requirement for maintenance of confirmation numbers used in the DAS call-in notification program was revised in the Northeast Multispecies FMP Amendment 7 final rule. This change was omitted during the consolidation and is now made to § 648.10(c)(2).

In § 648.10(b), the first reference to "§ 649.9(a)" is corrected to read "§ 648.10(d)."

In § 648.10(c)(3), the reference to the DAS accounting method for vessels fishing with gillnet gear that was disapproved in Amendment 7 to the Northeast Multispecies FMP is removed.

In § 648.10(c)(5), the references to "§ 648.83" and "paragraph (b)" are corrected to read "§ 648.89," and "paragraph (c)," respectively.

In § 648.10, in the newly redesignated paragraph (e), the reference to paragraph "(b)" is corrected to read "(b)(1)."

In § 648.10(f), which was inadvertently excluded during the consolidation, is added to describe the call-in requirement for multispecies vessels, subject to the 20-day spawning season restrictions of § 648.82(g).

In § 648.14, all references to the metric conversion for 50 bu were incorrectly identified as "176.2 L," and are corrected to read "17.62 hl."

In § 648.14(a)(19), the reference to "§ 648.75(t)(1)(iii)" is corrected to read "§ 648.75(h)."

In § 648.14(a)(37), the reference to "§ 648.8(c)(3)" is corrected to read "§ 648.80(c)(3)."

In § 648.14(a)(40), the reference to "§ 648.81(d)(2)" is corrected to read "§ 648.81(d)."

In § 648.14 (a)(43), (a)(48), (a)(50), and (c)(6) are made more explicit by naming the provisions indicated in the cross references.

Letters of authorization given to vessels that appeal the denial of a

limited access scallop permit are no longer applicable, because the appeal process is completed. Therefore, the reference to such letters is removed from § 648.14(a)(57)(i).

In § 648.14(a)(86), the deadline for selling or transferring scup is corrected to read "January 1, 1997."

In § 648.14, paragraphs (a) (96) and (97) were omitted during the consolidation, and are added.

In § 648.14(c)(7), the reference to "§ 648.8" is corrected to read "§ 648.86(a) and § 648.82(b)(3)."

The winter flounder possession limit proposed in Amendment 7 to the NE Multispecies FMP was disapproved. Section 648.14(c)(10), which refers to this disapproved limit, is removed.

In § 648.14(d)(3), the reference to "§ 648.86(a)(2)" is corrected to read "§ 648.88(a)(2)."

In § 648.14(d)(4), the prohibition concerning the violation of the open access handgear vessel provisions, which was inadvertently omitted during the consolidation, is added.

In § 648.14(h)(9), the reference to "§ 648.51(a)(2)(iii)" is corrected to read "§ 648.51(a)(2)(ii)."

In § 648.14, paragraph (r) is a duplicate of paragraph (n). Paragraph (r) is removed and reserved.

In § 648.14(x)(1)(iii), the reference to "§ 648.70(d)(2)" is corrected to read "§ 648.70(b)."

The paragraph on radio hails, which was present in the final rule of Amendment 7, was omitted from § 648.15, and is added.

In § 648.23(b)(3)(ii), the requirement to remove leg wires from a net during stowage is removed to reflect that the Regional Administrator has already eliminated the requirement pursuant to § 648.23(b)(4).

Throughout subpart D, the metric conversion for "50 bu" is corrected to read "17.62 hl."

In § 648.54(a), reference to "§ 648.54(c)" is corrected to read "§ 648.53(b);" in paragraph (b)(1), the reference to "§ 648.53(c)" is corrected to read "§ 648.53(c);" and in paragraph (c), the reference to paragraph "(b)" is corrected to read "(b)(1)" and the reference to "§ 648.10(f)" is corrected to read "§ 648.10(e)."

In § 648.73(a), errors exist in the notation of coordinate points and are corrected.

In the introductory paragraph for § 648.80, the vessels required to comply with multispecies requirements in the Gulf of Maine/Georges Bank area are clarified.

In § 648.80, the title for paragraph (a)(2)(iii) is changed to "Other Exemptions" and the paragraph is

revised to clarify that vessels fishing with an open access charter/party or hand gear permit are included in this exemption.

The dates for the northern shrimp season are set annually by the Atlantic States Marine Fisheries Commission and are removed from § 648.80(a)(3)(iii).

In § 648.80(a)(5), the authorization to use 6-inch (15.24-cm) diamond mesh in the Stellwagen Bank/Jeffreys Ledge Juvenile Protection Area is incorrect and, therefore, is eliminated.

In § 648.80, paragraph (a)(7)(iv) is clarified to reflect that this section covers bycatch in exempted fisheries.

In § 648.80(a)(7)(iv)(D), the reference to "(a)(10)" is corrected to read "§ 648.80(b)."

In § 648.80, the heading for paragraph (b)(2)(iii) is changed to "Other Exemptions" and the paragraph is revised to clarify that vessels fishing with an open access charter/party or hand gear permit are included in this exemption.

In § 648.80, paragraph (b)(3)(i) is revised to clarify that dogfish are exempted in the area only when caught with trawl gear.

In § 648.80(c)(1), the definition of the Mid-Atlantic Regulated Mesh Area is revised to reflect a change that was made in the final rule for Amendment 7 to the NE multispecies FMP.

In § 648.80(c)(2)(i), the reference to paragraph (c)(3) is incorrect and is removed.

In § 648.82(b)(1)(ii), vessels issued multispecies limited access gillnet permits are incorrectly included. In paragraph (b)(2)(ii), these vessels are inadvertently excluded. These paragraphs are revised accordingly.

In § 648.82(b)(4)(i), the proration factor for the 1996 DAS allocation is incorrectly identified as "0.83" and is revised to read "0.833."

In § 648.82(b)(4)(ii), the reference to "§ 648.4(a)(1)(ii)" is corrected to read "§ 648.4(a)(1)(i)."

In § 648.82, paragraph (b)(6)(i) omits the requirement that a vessel in this category must fish in this category for the entire year. This paragraph is revised accordingly.

The cutoff date for the receipt of appeal of a vessel DAS allocation given in § 648.82(d)(2)(i) is corrected to read "August 31, 1996."

In § 648.82(g), all references to "fishing year" are changed to "calendar year". Additionally, the paragraph is rewritten to be consistent with the final rule implementing NE Multispecies Amendment 7, to explain the operation of the spawning season requirement during the transition to these new requirements.

In § 648.86, paragraph (a)(2)(iii) is rewritten to clarify that combination vessels fishing under a multispecies DAS are not restricted under the haddock possession restriction for scallop dredge vessels.

In § 648.86, paragraph (b) refers to the disapproved winter flounder possession restrictions for the MA regulated mesh area, and is removed. Paragraph (c) of this section is redesignated paragraph (b).

In § 648.90(a)(3), the reference to "(a)(5)" is corrected to read "(a)(6)."

In § 648.100(b)(8), the references to "(a)(8) and (10)" are corrected to read "(a)."

The introduction to § 648.106 omits the word "fishery" when describing the summer flounder fishery, and this word is added.

Throughout the document, the words "Regional Director" are changed to "Regional Administrator." This title was changed with the restructuring of NMFS on August 19, 1996.

Classification

Because this rule only corrects omissions and other errors, removes provisions that are no longer applicable, and clarifies an existing set of regulations for which full prior notice and opportunity for comment was provided under 5 U.S.C. 553(b)(B), it is unnecessary to provide such procedures for this rule. Because this rule only corrects, clarifies and removes no longer applicable provisions, and imposes no new requirements on anyone subject to these regulations, under 5 U.S.C. 553(d)(3) it is not subject to a 30-day delay in effective date.

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

List of Subjects

50 CFR Part 600

Fisheries, Fishing.

50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: March 20, 1997.

C. Karnella,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR parts 600 and 648 are amended as follows:

PART 600—MAGNUSON ACT PROVISIONS

1. The authority citation for part 600 continues to read as follows:

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

2. In § 600.10, the definition for "Area of custody" is added in alphabetical order to read as follows:

§ 600.10 Definitions.

* * * * *

Area of custody means any vessel, building, vehicle, live car, pound, pier or dock facility where fish might be found.

* * * * *

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

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

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

4. In § 648.2, the definitions for "Multispecies Monitoring Committee", "Northeast (NE) multispecies or multispecies", and "Prior to leaving port" are revised to read as follows:

§ 648.2 Definitions.

* * * * *

Multispecies Monitoring Committee means a team of scientific and technical staff appointed by the NEFMC to review, analyze, and recommend adjustments to the measurement measures. The team consists of staff from the NEFMC and the MAFMC, NMFS Northeast Region Office, NEFSC, the USCG, an industry representative, and no more than two representatives, appointed by the Commission, from affected states.

* * * * *

Northeast (NE) multispecies 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.*

* * * * *

Prior to leaving port means prior to departing from the last dock or mooring in port to engage in fishing, including the transport of fish to another port.

* * * * *

5. In § 648.4, paragraphs (a)(1)(i)(E)(2), (a)(6)(i)(B)(I), (c)(2)(ii)(A), and (c)(2)(ii)(B) are revised to read as follows:

§ 648.4 Vessel permits.

- (a) * * *
- (1) * * *
- (i) * * *
- (E) * * *

(2) The replacement vessel's length, GRT, and NT may not exceed by more than 10 percent the length, GRT, and NT of the vessel that was initially issued a limited access permit as of the date the initial vessel applied for such permit.

* * * * *

- (6) * * *
- (i) * * *

(B) * * * (I) No one may apply for an initial scup moratorium permit after September 23, 1997.

* * * * *

- (c) * * *
- (2) * * *
- (ii) * * *

(A) If the engine horsepower was changed or a contract to change the engine horsepower had been entered into prior to July 1, 1996, such that it is different from that stated in the vessel's most recent application for a Federal fisheries permit before July 1, 1996, sufficient documentation to ascertain the different engine horsepower. However, the engine replacement must be completed within 1 year of the date on which the contract was signed.

(B) If the length, GRT, or NT was changed or a contract to change the length, GRT, or NT had been entered into prior to July 1, 1996, such that it is different from that stated in the vessel's most recent application for a Federal fisheries permit, sufficient documentation to ascertain the different length, GRT, or NT. However, the upgrade must be completed within 1 year from the date on which the contract was signed.

* * * * *

6. In § 648.7, paragraph (f)(2) is revised to read as follows:

§ 648.7 Recordkeeping and reporting requirements.

* * * * *

- (f) * * *

(2) *Fishing vessel log reports.* Fishing log reports must be received or postmarked, if mailed, within 15 days after the end of the reporting month. Each owner will be sent forms and instructions, including the address to which reports are to be submitted, shortly after receipt of a Federal fisheries permit. If no fishing trip is made during a month, a report stating so must be submitted.

* * * * *

7. In § 648.9, paragraph (e) is revised to read as follows:

§ 648.9 VTS requirements.

* * * * *

(e) *Replacement.* Should a VTS unit require replacement, a vessel owner must submit documentation to the Regional Administrator, within 3 days of installation and prior to the vessel's next trip, verifying that the new VTS unit is an operational, approved system as described under paragraph (a) of this section.

* * * * *

8. In § 648.10, in the table in paragraph (a), the column headings, and paragraphs (b) introductory text, (b)(1), (c)(1), (c)(2), (c)(3), and (c)(5) are revised, paragraph (e) is removed, paragraph (f) is redesignated as paragraph (e), the introductory text to newly redesignated paragraph (e) is revised, and new paragraph (f) is added to read as follows:

§ 648.10 DAS notification requirements.

(a) * * *

VTS DEMARCATION LINE

Description	N. Lat.	W. Long.
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* * * * *

(b) *VTS Notification.* Multispecies vessels issued an Individual DAS or Combination Vessel permit, scallop vessels issued a full-time or part-time limited access scallop permit, or scallop vessels fishing under the small dredge program specified in § 648.51(e), or vessels issued a limited access multispecies or scallop permit and whose owners elect to fish under the VTS notification of this paragraph (b), unless otherwise authorized or required by the Regional Administrator under § 648.10(d), must have installed on board an operational VTS unit that meets the minimum performance criteria specified in § 648.9(b) or as modified in § 648.9(a). Owners of such vessels must provide documentation to the Regional Administrator at the time of application for a limited access permit that the vessel has an operational VTS unit that meets those criteria. If a vessel has already been issued a limited access permit without providing such documentation, the Regional Administrator shall allow at least 30 days for the vessel to install an operational VTS unit that meets the criteria and to provide documentation of such installation to the Regional Administrator. Vessels that are required to or have elected to use a VTS unit shall be subject to the following requirements and presumptions:

(1) Vessels that have crossed the VTS Demarcation Line specified under

paragraph (a) of this section are deemed to be fishing under the DAS program, unless the vessel's owner, or authorized representative declares the vessel out of the scallop or NE multispecies fishery, as applicable, for a specific time period by notifying the Regional Administrator through the VTS prior to the vessel leaving port.

* * * * *

(c) * * *

(1) Prior to the vessel leaving port, the vessel owner or authorized representative must notify the Regional Administrator that the vessel will be participating in the DAS program by calling the Regional Administrator and providing the following information: Owner and caller name and phone number, vessel's name and permit number, type of trip to be taken, port of departure, and that the vessel is beginning a trip. A DAS begins once the call has been received and a confirmation number is given by the Regional Administrator.

(2) The vessel's confirmation numbers for the current and immediately prior multispecies fishing trip must be maintained on board the vessel and provided to an authorized officer upon request.

(3) Upon a vessel's return to port, the vessel owner or owner's representative must call the Regional Administrator and notify him/her that the trip has ended by providing the following information: Owner and caller name and phone number, vessel's name, port of landing and permit number, and that the vessel has ended a trip. A DAS ends when the call has been received and confirmation has been given by the Regional Administrator.

* * * * *

(5) Any vessel that possesses or lands per trip more than 400 lb (181.44 kg) of scallops, and any vessel issued a limited access multispecies permit subject to the DAS program and call-in requirement that possesses or lands regulated species, except as provided in § 648.89, shall be deemed in the DAS program for purposes of counting DAS, regardless of whether the vessel's owner or authorized representative provided adequate notification as required by paragraph (c) of this section.

* * * * *

(e) *Scallop vessels fishing under exemptions.* Vessels fishing under the exemptions provided by § 648.54 (a) and/or (b)(1) must notify the Regional Administrator by VTS notification or by call-in notification as follows:

* * * * *

(f) *Call-in for 20-day blocks.* With the exception of vessels issued a valid

Small Vessel category permit, vessels subject to the spawning season restriction described in § 648.82 must notify the Regional Administrator of the commencement date of their 20-day period out of the multispecies fishery through either the VTS system or by call-in notification and provide the following information: Vessel name and permit number, owner and caller name and phone number, and the commencement date of the 20-day period.

9. In § 648.14, paragraphs (a)(19), (a)(37), (a)(40), (a)(43), (a)(48), (a)(50), (a)(57) introductory text, (a)(57)(i), (a)(86), (a)(96), (c)(6), (c)(7), (d)(3), (h)(1), (h)(9), (i)(1), and (x)(1)(iii) are revised, paragraphs (a)(100) and (d)(4) are added, paragraph (c)(10) is removed and paragraph (r) is removed and reserved as follows:

§ 648.14 Prohibitions.

(a) * * *

(19) Land or possess, after offloading, any cage holding surf clams or ocean quahogs without a cage tag or tags required by § 648.75, unless the person can demonstrate the inapplicability of the presumptions set forth in § 648.75(h).

* * * * *

(37) Fish with, use, or have available for immediate use within the area described in § 648.80(c)(1), nets of mesh size smaller than the minimum mesh size specified in § 648.80(c)(2), except as provided in § 648.80(c)(3), (d), (e), and (i), or unless the vessel has not been issued a multispecies permit and fishes for NE multispecies exclusively in state waters.

* * * * *

(40) Enter, or be in the area described in § 648.81(c)(1), on a fishing vessel, except as provided in § 648.81 (c)(2) and (d).

* * * * *

(43) Violate any of the provisions of § 648.80 (a)(3) Small Mesh Northern Shrimp Fishery Exemption Area, (a)(4) Cultivator Shoals Whiting Fishery Exemption Area; (a)(5) Stellwagen Bank/Jeffreys Ledge (SB/JL) juvenile protection area; (a)(8), Small Mesh Area 1/Small Mesh Area 2; or (a)(9) Nantucket Shoals Dogfish Fishery Exemption Area, (b)(3) Exemptions, or (b)(5) SNE Monkfish Fishery Exemption Area. A violation of any of these paragraphs is a separate violation.

* * * * *

(48) Violate any provision of the open access permit restrictions as provided in § 648.88.

* * * * *

(50) Violate any provision of the state waters winter flounder exemption program as provided in § 648.80(i).

(57) Fish for, possess or land per trip, scallops in excess of 400 lb (181.44 kg) or 50 bu (17.62 hl) of in-shell scallops, unless:

(i) The scallops were harvested by a vessel that has been issued and carries on board a limited access scallop permit, or

(86) Sell or transfer scup harvested in or from the EEZ north of 35°15.3' N. lat. after January 1, 1997, unless the vessel has been issued a valid moratorium permit pursuant to § 648.4(a)(6).

(96) Enter or fish in the Gulf of Maine/ Georges Bank and Southern New England Regulated Mesh Areas, except as provided in §§ 648.80 (a)(2)(iii) and (b)(2)(iii), and for purposes of transiting, provided that all gear (other than exempted gear) is stowed in accordance with § 648.23(b).

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

(c) Fail to comply with any provision of the DAS notification program as specified in § 648.10.

(7) Possess or land per trip more than the possession limit specified under § 648.86(a) and § 648.82(b)(3), if the vessel has not been issued a limited access multispecies permit.

(3) Possess or land NE multispecies during the time period specified in § 648.88(a)(2).

(4) Violate any provision of the open access handgear permit restrictions as provided in § 648.88(a).

(1) Possess, or land per trip, more than 400 lb (181.44 kg) of shucked, or 50 bu (17.62 hl) of in-shell scallops after using up the vessel's annual DAS allocation or when not participating under the DAS program pursuant to § 648.10, unless exempted from DAS allocations as provided in § 648.54.

(9) Possess more than 40 lb (18.14 kg) of shucked, or 5 bu (176.2 l) of in shell scallops or participate in the DAS allocation program, while in the

possession of trawl nets that have a maximum sweep exceeding 144 ft (43.9 m), as measured by the total length of the footrope that is directly attached to the webbing of the net, except as specified in § 648.51(a)(2)(ii).

(1) Possess, or land per trip, more than 400 lb (181.44 kg) of shucked or 50 bu (17.62 hl) of in-shell scallops.

(r) [Reserved]

(x) (1) (iii) Surf clams or ocean quahogs found in cages without a valid state tag are deemed to have been harvested in the EEZ and to be part of an individual's allocation, unless such individual demonstrates that he/she has surrendered his/her surf clam and ocean quahog vessel permit issued under § 648.4 and has conducted fishing operations exclusively within waters under the jurisdiction of any state. Surf clams and ocean quahogs in cages with a Federal tag or tags, issued and still valid pursuant to this section, affixed thereto are deemed to have been harvested by the individual allocation holder to whom the tags were issued or transferred under § 648.(70) or § 648.75(b).

10. In § 648.15, paragraph (c) is added to read as follows:

§ 648.15 Facilitation of enforcement.

(c) *Radio hails.* Permit holders, while underway, must be alert for communication conveying enforcement instructions and immediately answer via VHF-FM radio, channel 16, when hailed by an authorized officer. Vessels not required to have VHF-FM radios by the Coast Guard are exempt from this requirement.

11. In § 648.23, paragraphs (b)(3)(ii) and (b)(4) are revised to read as follows:

§ 648.23 Gear Restrictions.

(ii) The towing wires are detached from the net; and

(4) *Other methods of stowage.* Any other method of stowage authorized in writing by the Regional Administrator and subsequently published in the **Federal Register**.

12. In § 648.51, paragraph (e) introductory text is revised to read as follows:

§ 648.51 Gear and crew restrictions.

(e) *Small dredge program restrictions.* Any vessel owner whose vessel is assigned to either the part-time or occasional category may request, in the application for the vessel's annual permit, to be placed in one category higher. Vessel owners making such request will be placed in the appropriate category for the entire year, if they agree to comply with the following restrictions, in addition to and notwithstanding other restrictions of this part, when fishing under the DAS program described in § 648.53, or in possession of more than 400 lb (181.44 kg) of shucked, or 50 bu (17.62 hl) of in-shell scallops:

13. In § 648.52, the heading and paragraph (a) is revised to read as follows:

§ 648.52 Possession limits.

(a) Owners or operators of vessels with a limited access scallop permit that have declared out of the DAS program as specified in § 658.10, or have used up their DAS allocations, and vessels possessing a General scallop permit, unless exempted under the state waters exemption program described under § 648.54, are prohibited from possession or landing per trip more than 400 lb (181.44 kg) of shucked, or 50 bu (17.62 hl) of in-shell scallops, with not more than one scallop trip allowable in any calendar day.

14. In § 648.53, paragraphs (a) and (b) introductory text are revised to read as follows:

§ 648.53 DAS allocations.

(a) *Assignment to DAS categories.* For each fishing year, each vessel issued a limited access scallop permit shall be assigned to the DAS category (full-time, part-time, or occasional) it was assigned to in the proceeding year. Limited access scallop permits will indicate which category the vessel is assigned to. Vessels are prohibited from fishing for, landing per trip, or possessing more than 400 lb (181.44 kg) of shucked, or 50 bu (17.62 hl) of in-shell scallops once their allocated number of DAS, as specified under paragraph (b) of this section, are used up.

(b) *DAS allocations.* Each vessel qualifying for one of the three categories specified in paragraph (a) of this section shall be allocated, annually, the maximum number of DAS it may

participate in the limited access scallop fishery, according to its category. A vessel whose owner/operator has declared it out of the scallop fishery, pursuant to the provisions of § 648.10, or has used up its allocated DAS may leave port without being assessed a DAS, as long as it does not possess or land more than 400 lb (181.44 kg) of shucked or 50 bu (17.62 hl) of in-shell scallops and complies with the other requirements of this part. The annual allocations of DAS for each category of vessel for the fishing years indicated are as follows:

* * * * *

15. In § 648.54, paragraphs (a), (b)(1), and (c) are revised to read as follows:

§ 648.54 State waters exemption.

(a) *DAS exemption.* Any vessel issued a limited access scallop permit is exempt from the DAS requirements specified in § 648.53(b) while fishing exclusively landward of the outer boundary of a state's waters, provided the vessel complies with paragraphs (c) through (f) of this section.

(b) *Gear restriction exemption—(1) Limited access permits.* Any vessel issued a limited access scallop permit that is exempt from the DAS requirements of § 648.53(b) under paragraph (a) of this section is also exempt from the gear restrictions specified in § 648.51 (a), (b), (e)(1) and (e)(2) while fishing exclusively landward of the outer boundary of the waters of a state that has been deemed by the Regional Administrator under paragraph (b)(3) of this section to have a scallop fishery and a scallop conservation program that does not jeopardize the fishing mortality/effort reduction objectives of the Scallop FMP, provided the vessel complies with paragraphs (c) through (f) of this section.

* * * * *

(c) *Notification requirements.* Vessels fishing under the exemptions provided by paragraph(s) (a) and/or (b)(1) of this section must notify the Regional Administrator in accordance with the provisions of § 648.10(e).

* * * * *

16. In § 648.73, paragraphs (a)(1) through (a)(3) are revised to read as follows:

§ 648.73 Closed Areas.

(a) * * *

(1) *Boston Foul Ground.* The waste disposal site known as the "Boston Foul Ground" and located at 42°2'36" N. lat., 70°35'00" W. long., with a radius of 1 nm in every direction from that point.

(2) *New York Bight.* The polluted area and waste disposal site known as the

"New York Bight Closure" and located at 40°25'04" N. lat., 73°42'38" W. long., and with a radius of 6 nm in every direction from that point, extending further northwestward, westward and southwestward between a line from a point on the arc at 40°3'00" N. lat., 73°43'38" W. long., directly northward toward Atlantic Beach Light in New York to the limit of the state territorial waters of New York; and a line from the point on the arc at 40°19'48" N. lat., 73°45'42" W. long. to a point at the limit of the state territorial waters of New Jersey at 40°14'00" N. lat., 73°55'42" W. long.

(3) *106 Dumpsite.* The toxic industrial dump site known as the "106 Dumpsite" and located between 38°40'00" N. lat. and 39°00'00" N. lat., and 73°55'42" W. long.

* * * * *

17. In § 648.80, the introductory paragraph, paragraphs (a)(2)(iii), (a)(3)(iii), (a)(5) introductory text, (a)(7)(iv) introductory text, (a)(7)(iv)(D), (b)(2)(iii), (b)(3)(i), (c)(1), and (c)(2)(i) are revised to read as follows.

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

All vessels must comply with the following minimum mesh size, gear and methods of fishing requirements, unless otherwise exempted or prohibited.

(a) * * *

(2) * * *

(iii) *Other restrictions and exemptions.* The minimum size for any trawl net, gillnet, Scottish seine, midwater trawl, or purse seine on a vessel or used by a vessel when fishing in the GOM/GB Regulated Mesh Area while not under the NE multispecies DAS program but when under one of the exceptions specified in paragraphs (a)(3), (a)(4), (a)(6), (a)(8), (a)(9), (d), (e), (h), and (i) of this section, is set forth in the respective paragraph specifying the exemption. Vessels that are not fishing under one of these exemptions, with exempted gear (as defined under this part), under the scallop state waters exemption specified in § 648.54, under a NE multispecies DAS, or under a NE multispecies open access Charter/Party or a Handgear permit, are prohibited from fishing in the GOM/GB Regulated Mesh Area.

* * * * *

(3) * * *

(iii) *Time restrictions.* A vessel may only fish under this exemption during the northern shrimp season, as established by the Commission and announced in the Commission's letter to participants.

* * * * *

(5) *Stellwagen Bank/Jeffreys Ledge (SB/JL) Juvenile Protection Area.* Except as provided in paragraphs (a)(3), (d), (e), and (h) of this section, the minimum mesh size for any trawl net, Scottish seine, purse seine, or midwater trawl in use, or available for immediate use as described in § 648.23(b), by a vessel fishing in the following area is 6-inch (15.24 cm) square mesh in the last 50 bars of the codend and extension piece for vessels 45 ft (13.7 m) in length and less and the last 100 bars of the codend and extension piece for vessels greater than 45 ft (13.7 m) in length.

* * * * *

(7) * * *

(iv) Bycatch in exempted fisheries authorized under this paragraph (a)(7) are subject, at minimum, to the following restrictions:

* * * * *

(D) A limit on the possession of skate or skate parts in the Southern New England regulated mesh area described in paragraph (b) of this section of 10 percent, by weight, of all other species on board.

* * * * *

(b) * * *

(2) * * *

(iii) *Other restrictions and exemptions.* The minimum mesh size for any trawl net, gillnet, Scottish seine, midwater trawl, or purse seine in use or available for immediate use, as described in § 648.23(b), by a vessel when not fishing under the NE multispecies DAS program and when fishing in the SNE Regulated Mesh Area is specified under the exemptions set forth in paragraphs (b)(3), (b)(5), (c), (e), (h), and (i) of this section. Vessels that are not fishing under one of these exemptions, with exempted gear (as defined under this part), or under the scallop state waters exemption specified in § 648.54, under a NE multispecies DAS, or under a NE Multispecies open access Charter/Party or Handgear permit, are prohibited from fishing in the SNE Regulated Mesh Area.

* * * * *

(3) *Exemptions—(i) Species exemptions.* Vessels subject to the minimum mesh size restrictions specified in paragraph (b)(2) of this section may fish for, harvest, possess, or land butterfish, dogfish (trawl only), herring, mackerel, ocean pout, scup, shrimp, squid, summer flounder, silver hake, and weakfish with nets of a mesh size smaller than the minimum size specified in the SNE Regulated Mesh Area, provided such vessels comply with the requirements specified in paragraph (b)(3)(ii) of this section.

* * * * *

(c) * * *

(1) *Mid-Atlantic regulated mesh area.* (1) *Area definition.* The Mid-Atlantic Regulated Mesh Area is that area bounded on the east by a line running from the Rhode Island shoreline at 41°18.2' N. lat. and 71°51.5' W. long. (Watch Hill, RI) southwesterly through Fishers Island, NY, to Race Point, Fishers Island, NY, southeasterly to the intersection of the 3-nautical mile line east of Montauk Point, southwesterly along the 3-nautical mile line to the intersection of 72°30' W. long. and south along that line to the intersection of the outer boundary of the EEZ.

(2) *Gear restrictions—(i) Minimum mesh size.* Except as provided in paragraph (i) of this section, and unless otherwise restricted under paragraph (c)(2)(ii) of this section, the minimum mesh size for any trawl net, sink gillnet, Scottish seine, purse seine, or midwater trawl in use or available for immediate use, as described in § 648.23(b), by a vessel fishing under a DAS in the NE multispecies DAS program in the MA Regulated Mesh Area shall be that specified by § 648.104(a). This restriction does not apply to vessels that have not been issued a NE multispecies permit and that are fishing exclusively in state waters.

* * * * *

18. In § 648.82, paragraphs (b)(1)(ii), (b)(2)(ii), (b)(4)(i) introductory text, (b)(4)(ii), (b)(6)(i), (d)(2)(i) introductory text, and (g) are revised to read as follows:

§ 648.82 Effort-control program for limited access vessels.

* * * * *

(b) * * *

(1) * * *

(ii) *Initial assignment.* Any vessel issued a valid limited access multispecies Individual DAS permit as of July 1, 1996, except those that have been issued a gillnet permit, shall be initially assigned to the Individual DAS category.

(2) * * *

(i) *Initial assignment.* Any vessel issued a valid Fleet DAS permit, Gillnet permit, limited access Hook-Gear permit, or a vessel issued a Less than or equal to 45 ft (13.7 m) permit that is larger than 20 ft (6.1 m) in length as determined by its most recent permit application, as of July 1, 1996, shall be initially assigned to the Fleet DAS category.

* * * * *

(4) *Hook-Gear category—(i) DAS allocation.* Any vessel issued a valid limited access multispecies Hook-Gear permit shall be allocated 116 DAS (139

DAS multiplied by the proration factor of 0.833) for the 1996 fishing year and 88 DAS for the 1997 fishing year and beyond. A vessel fishing under this category in the DAS program must meet or comply with the following while fishing for, in possession of, or landing regulated species:

* * * * *

(ii) *Initial assignment.* No vessel shall be initially assigned to the Hook-Gear category. Any vessel that meets the qualifications specified in § 648.4(a)(1)(i) may apply for and obtain a permit to fish under this category.

* * * * *

(6) *Large Mesh Individual DAS category—(i) DAS allocation.* A vessel fishing under the Large Mesh Individual DAS category shall be allocated a DAS increase of 12 percent in year 1 and 36 percent in year 2 and beyond over the DAS allocations specified in paragraph (b)(1)(i) of this section (this includes the proration factor for 1996). To be eligible to fish under the Large Mesh Individual DAS category, a vessel, while fishing under this category, must fish with gillnet gear with a minimum size of 7-inch (17.78 cm) diamond mesh or with trawl gear with a minimum mesh size of 8-inch (20.32 cm) diamond mesh, for the entire year, as described under § 648.80(a)(2)(ii), (b)(2)(ii), and (c)(2)(ii).

* * * * *

(d) * * *

(2) *Appeal of DAS allocation—(i)* Initial allocations of individual DAS to those vessels authorized to appeal under paragraph (c) of this section may be appealed to the Regional Administrator if a request to appeal is received by the Regional Administrator no later than August 31, 1996, or 30 days after the initial allocation is made, whichever is later. Any such appeal must be in writing and be based on one or more of the following grounds:

* * * * *

(g) *Spawning season restrictions.* A vessel issued a valid Small Vessel permit under paragraph (b)(3) of this section may not fish for, possess, or land regulated species from March 1 through March 20 of each year. Any other vessel issued a limited access multispecies permit must declare out and be out of the regulated NE multispecies fishery for a 20-day period between March 1 and May 31 of each calendar year using the notification requirements specified in § 648.10. If a vessel owner has not declared and been out for a 20-day period between March 1 and May 31 of each calendar year on or before May 12 of each year, the vessel is prohibited from fishing for, possessing or landing any regulated species during the period

May 12 through May 31, inclusive. If a vessel has taken a spawning season 20-day block out of the NE multispecies fishery during May 1996, it shall not be required to take a 20-day block out of the multispecies fishery in 1997. Beginning January 1, 1998, any such vessel must comply with the spawning season restriction as specified in this part.

* * * * *

19. In § 648.86, paragraph (a)(2)(iii) is revised, paragraph (b) is removed, and paragraph (c) redesignated as paragraph (b) to read as follows.

§ 648.86 Possession restrictions.

(a) * * *

(2) * * *

(iii) From July 1 through December 31, scallop dredge vessels or persons owning or operating a scallop dredge vessel that is fishing under a scallop DAS allocated under § 648.53 may land or possess on board up to 300 lb (136.1 kg) of haddock provided that the vessel has at least one standard tote on board. This restriction does not apply to vessels issued NE multispecies Combination Vessel permits that are fishing under a multispecies DAS. Haddock on board a vessel subject to this possession limit must be separated from other species of fish and stored so as to be readily available for inspection.

20. In § 648.90, paragraph (a)(3) is revised to read as follows:

§ 648.90 Framework specifications.

(a) * * *

(3) The NEFMC shall review the recommended target TACs and all of the options developed by the MSMC and other relevant information, consider public comment, and develop a recommendation to meet the NE Multispecies FMP objective that is consistent with the other applicable law. If the NEFMC does not submit a recommendation that meets the NE Multispecies FMP objectives and is consistent with other applicable law, the Regional Administrator may adopt any option developed by the MSMC, unless rejected by the NEFMC, as specified in paragraph (a)(6) of this section, provided the option meets the NE Multispecies FMP objective and is consistent with other applicable law.

* * * * *

21. In § 648.100, paragraph (b)(8) is revised to read as follows:

§ 648.100 Catch quotas and other restrictions.

* * * * *

(b) * * *

(8) Adjustments to the exempted area boundary and season specified in

§ 648.104(b)(1) by 30-minute intervals of latitude and longitude and 2-week intervals, respectively, based on data specified in paragraph (a) of this section to prevent discarding of sublegal sized summer flounder in excess of 10 percent, by weight.

* * * * *

22. In § 648.106, the introductory text is revised to read as follows:

§ 648.106 Sea Turtle conservation.

This section will be suspended during the effectiveness of any temporary regulations issued to regulate incidental take of sea turtles in the summer flounder fishery under authority of the ESA under parts 217, 222, 227 of this title. Such suspensions and temporary regulations will be issued by publication in the **Federal Register** and will be effective for a specified period of time, not to exceed 1 year.

* * * * *

PART 648—[NOMENCLATURE CHANGE]

23. In part 648, all references to "Regional Director" are revised to read "Regional Administrator."

[FR Doc. 97-7714 Filed 3-24-97; 4:22 pm]

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50 CFR Part 622

[Docket No. 960807218-6244-02; I.D. 032097F]

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Closure of the Commercial Red Snapper Component

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

ACTION: Closure.

SUMMARY: NMFS closes the commercial fishery for red snapper in the exclusive economic zone (EEZ) of the Gulf of Mexico. NMFS has projected that the initial portion of the annual commercial quota for red snapper will be reached on March 25, 1997. This closure is necessary to protect the red snapper resource.

EFFECTIVE DATE: Closure is effective 12:01 a.m., local time, March 26, 1997, through September 14, 1997.

FOR FURTHER INFORMATION CONTACT: Robert Sadler, 813-570-5305.

SUPPLEMENTARY INFORMATION: The reef fish fishery of the Gulf of Mexico is managed under the Fishery

Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP). The FMP was prepared by the Gulf of Mexico Fishery Management Council and is implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act. Those regulations set the commercial quota for red snapper in the Gulf of Mexico at 4.65 million lb (m lb) (2.11 million kg (m kg)) for the current fishing year, January 1 through December 31, 1997. The 1997 commercial quota is split between two seasons, the first beginning on February 1 with a quota of 3.06 m lb (1.39 m kg) and the second beginning on September 15 with a quota equal to the unharvested balance of the annual commercial quota.

Under 50 CFR 622.43(a), NMFS is required to close the commercial fishery for a species or species group when the quota for that species or species group is reached, or is projected to be reached, by publishing notification to that effect in the **Federal Register**. Based on current statistics, NMFS has projected that the available commercial quota of 3.06 m lb (1.39 m kg) for red snapper will be reached on March 25, 1997. Accordingly, the commercial fishery in the EEZ in the Gulf of Mexico for red snapper is closed effective 12:01 a.m., local time, March 26, 1997, through September 14, 1997. The operator of a vessel with a valid reef fish permit having red snapper on board must land and sell such red snapper prior to 12:01 a.m., local time, March 26, 1997.

During the closure, the bag limit applies to all harvests of red snapper in or from the EEZ in the Gulf of Mexico. The daily bag limit for red snapper is five per person. From 12:01 a.m., local time, March 26, 1997, through September 14, 1997, the sale or purchase of red snapper taken from the EEZ is prohibited. This prohibition does not apply to sale or purchase of red snapper that were harvested, landed ashore, and sold prior to 12:01 a.m., local time, March 26, 1997, and were held in cold storage by a dealer or processor.

Classification

This action is taken under 50 CFR 622.43(a) and is exempt from review under E.O. 12866.

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

Dated: March 20, 1997.

Bruce Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 97-7716 Filed 3-21-97; 4:50 pm]

BILLING CODE 3510-22-F

50 CFR Part 679

[Docket No. 961107312-7021-02; I.D. 032097A]

Fisheries of the Exclusive Economic Zone Off Alaska; Yellowfin Sole by Vessels Using Trawl Gear in Bering Sea and Aleutian Islands

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

ACTION: Closure.

SUMMARY: NMFS is closing directed fishing for yellowfin sole by vessels using trawl gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the first seasonal apportionment of the 1997 Pacific halibut bycatch allowance specified for the trawl yellowfin sole fishery category.

EFFECTIVE DATE: 1200 hrs, Alaska local time (A.l.t.), March 22, 1997, through 1200 hrs, A.l.t., April 1, 1997.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907-586-7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the BSAI exclusive economic zone is managed by NMFS according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at subpart H of 50 CFR part 600 and 50 CFR part 679.

The first seasonal apportionment of the 1997 halibut bycatch allowance specified for the trawl yellowfin sole fishery in the BSAI, which is defined at § 679.21(e)(3)(iv)(B)(1), was established by the Final 1997 Harvest Specifications of Groundfish for the BSAI (62 FR 7168, February 18, 1997) as 210 mt.

In accordance with § 679.21(e)(7)(iv), the Administrator, Alaska Region, NMFS, has determined that the first seasonal apportionment of the 1997 halibut bycatch allowance specified for the trawl yellowfin sole fishery in the BSAI has been caught. Consequently, NMFS is prohibiting directed fishing for yellowfin sole by vessels using trawl gear in the BSAI.

Maximum retainable bycatch amounts for applicable gear types may be found in the regulations at § 679.20(e) and (f).