

demanding authority a stay in the proceedings to allow sufficient time to obtain advice of counsel.

(d) If the court or other authority declines to stay the effect of the demand in response to a request made in accordance with paragraph (c) of this section pending consultation with counsel, or if the court or other authority rules that the demand must be complied with irrespective of instructions not to testify or disclose the information sought, the employee upon whom the demand has been made shall respectfully decline to comply with the demand, citing these regulations and *United States ex rel. Touhy v. Ragen*, 340 U.S. 462 (1951).

§ 5.88 Testimony in litigation in which the United States is a party.

(a) Whenever, in any legal proceeding where the United States is a party, the attorney in charge of presenting the case for the United States requests it, the General Counsel shall arrange for an employee of the Agency to testify as a witness for the United States.

(b) The attendance and testimony of named employees of the Agency may not be required in any legal proceeding by the judge or other presiding officer, by subpoena or otherwise. However, the judge or other presiding officer may, upon a showing of exceptional circumstances (such as a case in which a particular named FEMA employee has direct personal knowledge of a material fact not known to the witness made available by the Agency) require the attendance and testimony of named FEMA personnel.

§ 5.89 Waiver.

The General Counsel (or, as to employees of the Office of Inspector General, the Inspector General) may grant, in writing, a waiver of any policy or procedure prescribed by this subpart, where waiver is considered necessary to promote a significant interest of the Agency or for other good cause. In granting such waiver, the General Counsel (or Inspector General) shall attach to the waiver such reasonable conditions and limitations as are deemed appropriate in order that a response in strict compliance with the terms of a subpoena *duces tecum* or the providing of testimony will not interfere with the duties of the employee and will otherwise conform to the policies of this part. The Director may, in his or her discretion, review any decision to authorize a waiver of any policy or procedure prescribed by this subpart.

Dated: July 30, 1998.

James L. Witt,

Director.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 600 and 648

[I.D. 081998C]

Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Applications for Exempted Fishing Permits (EFPs) to Conduct Experimental Fishing

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

ACTION: Notification of Two Proposals for EFPs; request for comments.

SUMMARY: NMFS issues this notification to announce that the Regional Administrator, Northeast Region, NMFS (Regional Administrator) is considering approval of two experimental fishing proposals that would permit vessels to conduct operations otherwise restricted by regulations governing the Fisheries of the Northeastern United States. The experimental fisheries would involve fishing for, retention, and landing of silver hake (whiting) with small mesh in the Gulf of Maine/Georges Bank (GOM/GB) Regulated Mesh Area. Regulations under the Magnuson-Stevens Fisheries Conservation and Management Act (Magnuson-Stevens Act) provisions require publication of this notification to provide interested parties the opportunity to comment on the proposed experimental fisheries.

DATES: Comments must be received by September 14, 1998.

ADDRESSES: Comments should be sent to Jon Rittgers, Acting Regional Administrator, NMFS, Northeast Regional Office, 1 Blackburn Drive, Gloucester, MA 01930. The envelope should be clearly marked "Comments on Proposed Experimental Fisheries."

FOR FURTHER INFORMATION CONTACT: Peter Christopher, Fishery Management Specialist, 978-281-9288.

SUPPLEMENTARY INFORMATION: The Maine Department of Marine Resources (MEDMR) submitted an application on July 1, 1998, to conduct the testing of modified trawl gears to supplement an existing experimental fishery. While the current experimental fishery is designed

to determine the effectiveness of a bycatch reduction device, or separator grate, in a GOM whiting small mesh trawl fishery, MEDMR's proposal would allow the testing of modifications to the separator grate and the trawl. Proposed modifications of the current gear include various bar spacing on the separator grate, various codend mesh size, and a raised footrope configuration on the otter trawl.

On July 14, 1998, the Massachusetts Division of Marine Fisheries (MADMF) requested the re-authorization of an experimental fishery for whiting for the 1998 fishing season. The re-authorization of the experiment would allow the MADMF to determine whether or not the modified gear known as the "raised footrope trawl" is an appropriate small mesh gear for various areas in the GOM/GB Regulated Mesh Area that have not been completely analyzed. In addition it would allow MADMF and NMFS to consider additional data on the bycatch of regulated multispecies in the experimental fishery.

EFPs would be issued to the participating vessels in both projects to exempt them from possession limit, mesh size, and days-at-sea restrictions of the Northeast Multispecies Fishery Management Plan.

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

Dated: August 21, 1998.

Gary C. Matlock,

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

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[I.D. 082098F]

New England Fishery Management Council; Public Meetings

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

ACTION: Public meetings.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Herring Committee to be held jointly with the Atlantic States Marine Fisheries Commission's (ASMFC) Herring Section to consider actions affecting New England fisheries in the