

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****15 CFR Part 902****50 CFR Part 648**

[Docket No. 020409080-2174-05; I.D. 061402D]

RIN 0648-AP78

**Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Northeast Multispecies Fishery**

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

**ACTION:** Interim final rule.

**SUMMARY:** NOAA Fisheries is implementing additional interim measures intended to reduce overfishing on species managed under the Northeast Multispecies Fishery Management Plan (FMP), under the authority of section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). This interim final rule implements additional restrictions specified in the Settlement Agreement Among Certain Parties ("Settlement Agreement"), which was ordered to be implemented by the U.S. District Court for the District of Columbia (Court) in a Remedial Order issued on May 23, 2002. The additional measures include the following: A freeze on days-at-sea (DAS) at the highest annual level used from fishing years 1996-2000 (beginning May 1, 1996, through April 30, 2001) and a 20-percent cut from that level; a freeze on the issuance of new open access Hand-gear permits, and a decreased cod, haddock, and yellowtail flounder possession limit for that category; increased gear restrictions for certain gear types, including gillnets, hook-gear and trawl nets; restrictions on yellowtail flounder catch; and mandated observer coverage levels for all gear sectors in the Northeast (NE) multispecies (groundfish) fishery. This interim final rule also continues many of the measures contained in an earlier interim final rule that was published on April 29, 2002, for this fishery. This action is necessary to bring the regulations governing the NE multispecies fishery into compliance with the Settlement Agreement and the Court's Remedial Order.

**DATES:** Effective August 1, 2002.

**ADDRESSES:** Written comments regarding the approved collection-of-information requirements should be sent to Patricia A. Kurkul, Regional Administrator, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930, and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (Attn: NOAA Desk Officer).

Copies of this interim final rule, including the Environmental Assessment/ Regulatory Impact Review/ Final Regulatory Flexibility Analysis (EA/RIR/FRFA) are available upon request from the Regional Administrator. The EA/RIR/FRFA is also accessible via the Internet at <http://www.nero.nmfs.gov>.

**FOR FURTHER INFORMATION CONTACT:** Thomas Warren, Fishery Policy Analyst, phone: 978-281-9347, fax: 978-281-9135; e-mail: [thomas.warren@noaa.gov](mailto:thomas.warren@noaa.gov).

**SUPPLEMENTARY INFORMATION:****Background**

A proposed interim rule for this action, requesting public comment, was published on July 1, 2002 (67 FR 44139). A discussion of the events leading up to this interim final rule follows: On December 28, 2001, a decision was rendered by the Court on a lawsuit brought by the Conservation Law Foundation (CLF), Center for Marine Conservation, National Audubon Society and Natural Resources Defense Council against NOAA Fisheries (*Conservation Law Foundation, et al., v. Evans*, Case No. 00CVO1134, (D.D.C., December 28, 2001)). The lawsuit alleged that Framework Adjustment 33 to the FMP violated the overfishing, rebuilding and bycatch provisions of the Magnuson-Stevens Act (16 U.S.C. 1801, *et seq.*), as amended by the Sustainable Fisheries Act (SFA). The Court granted Plaintiffs' Motion for Summary Judgment on all counts, but did not impose a remedy. Instead, the Court asked the parties to the lawsuit to propose remedies consistent with the Court's findings. Shortly thereafter, several additional parties were allowed to intervene in the lawsuit for purposes of proposing the appropriate remedy. These parties ("Intervenors") included the States of Maine, New Hampshire, Massachusetts, and Rhode Island, and three industry groups. Additional background on the lawsuit is contained in the preambles to the interim rules published by NOAA Fisheries on April 29, 2002 (67 FR 21140), May 6, 2002 (67 FR 30331), and June 5, 2002 (67 FR 38608), and in the proposed interim rule published July 1,

2002 (67 FR 44139), and is not repeated here.

From April 5-9, 2002, Plaintiffs, Defendants and Intervenors engaged in Court-sponsored mediation to try to agree upon mutually acceptable short-term and long-term solutions to present to the Court as an appropriate remedy. Although these discussions ended with no agreement, several of the parties continued mediation and filed a Settlement Agreement with the Court on April 16, 2002. In addition to NOAA Fisheries, the parties signing the agreement include CLF, which is one of the Plaintiff conservation groups, all four state Intervenors, and two of three industry Intervenors.

In order to ensure the implementation of protective management measures by May 1, 2002, NOAA Fisheries, notwithstanding that the Court had not yet issued its Remedial Order, filed an interim final rule with the Office of the Federal Register on April 25, 2002, for publication on April 29, 2002. The interim final rule that was published on April 29, 2002, implemented measures identical to the short-term measures contained in the Settlement Agreement filed with the Court.

On April 26, 2002, the Court issued a Remedial Order that ordered the promulgation of two specific sets of management measures—one to be effective from May 1, 2002, to July 31, 2002, and the other from August 1, 2002, until promulgation of Amendment 13 to the FMP. The Court-ordered measures for the first set of measures were, in the majority, identical with those contained in the Settlement Agreement and the measures contained in NOAA Fisheries' April 29, 2002, interim final rule. However, the Court-ordered measures included additional provisions and an accelerated schedule of effectiveness for all measures, which were not contained in either the Settlement Agreement or the April 29, 2002, interim final rule. According to the Court, these additional provisions were included to strengthen the Settlement Agreement provisions "in terms of reducing overfishing and minimizing bycatch without risking the lives of fishers or endangering the future of their communities and their way of life." Remedial Order, p.13. Further, the Court ordered that NOAA Fisheries publish in the **Federal Register**, as quickly as possible, an "amended interim rule and an amended second interim rule" that would "include the departures from the Settlement Agreement incorporated in the Remedial Order." To comply with the Court Order, NOAA Fisheries published a second interim final rule ("amended

interim rule”) to modify the measures implemented through the April 29, 2002, interim final rule and to accelerate the effectiveness of the gear restrictions, as required by the Remedial Order. Because the Court’s Remedial Order was not entirely consistent with the terms of the Settlement Agreement, NOAA Fisheries, CLF, and the Intervenor filed motions for reconsideration with the Court, requesting that the Court implement the terms of the Settlement Agreement without change.

On May 23, 2002, the Court issued an Order, in the case of *Conservation Law Foundation, et al. v. Evans et al.* (Case No. 001134 GK) (D.D.C. May 23, 2002) granting the motions for reconsideration on the basis that “the important changes made by the Court in the complex and carefully crafted Settlement Agreement Among Certain Parties \* \* \* would produce unintended consequences.” The Court ordered that the Settlement Agreement be implemented according to its terms; that the Secretary of Commerce (Secretary) publish an interim rule, effective no later than June 1, 2002, to reduce overfishing in the first quarter of the 2002–2003 fishing year; that the Secretary publish another interim rule to be effective no later than August 1, 2002, to reduce overfishing beginning with the second quarter of the 2002–2003 fishing year, and continuing until implementation of Amendment 13 to the FMP, which complies with the overfishing, rebuilding, and bycatch provisions of the SFA; and that, no later than August 22, 2003, the Secretary promulgate such an amendment to the FMP. The Court further ordered that the Secretary shall make public the most current scientific information to enable completion of the FMP Amendment no later than December 1, 2002, provide at least 5 percent observer coverage, and inform the Court of the steps taken to comply with the Order no later than September 5, 2002. The Order relating to observer coverage differs from the Settlement Agreement in that it requires a minimal level of 5 percent at first and 10 percent by May 1, 2003, unless it can be established by scientific information that an increase is not necessary. NMFS intends to implement a program to provide at least 5 percent observer coverage in the multispecies fishery for the period August 1, 2002–April 30, 2003, and thereafter, at a level of at least 5 percent depending on statistical need.

In response to the May 23, 2002, Court Order, on May 31, 2002, NOAA Fisheries filed an interim rule with the **Federal Register** (67 FR 38608, June 5, 2002) that implemented regulations for the June 1 through July 31, 2002, period, consistent with the Settlement

Agreement. On July 1, 2002, NOAA Fisheries published a proposed interim rule (67 FR 44139) for measures ordered by the Court to be effective August 1, 2002; public comments were accepted through July 16, 2002. This interim final rule implements management measures for the period August 1, 2002, through the implementation of Amendment 13, in accordance with the Settlement Agreement and the Remedial Order. Amendment 13, which will bring the FMP into full compliance with the SFA, is under development by NOAA Fisheries and the New England Fishery Management Council (Council) and is intended to be implemented by August 22, 2003. This interim final rule is an interim action necessary to reduce overfishing consistent with and pursuant to section 305(c) of the Magnuson-Stevens Act, while Amendment 13 is being developed. Under the provisions of section 305(c)(3) of the Magnuson-Stevens Act, interim measures shall remain in effect for not more than 180 days after the date of publication, and may be extended by publication in the **Federal Register** for one additional period of not more than 180 days, provided that the public has had an opportunity to comment on the interim measures. Because of the Court’s Remedial Order, it is very unlikely that NOAA Fisheries will not extend this action beyond the first 180-day period. NOAA Fisheries will confirm this extension by publishing notification of continuation of regulations in the **Federal Register**. If for any reason, these interim measures do not need to remain in effect until they are replaced by the final rule implementing Amendment 13 to the FMP, as currently required by the Remedial Order, NOAA Fisheries will publish, pursuant to appropriate rulemaking procedures, a rule to amend these measures or to restore the regulations governing the NE multispecies fishery to their form prior to the effectiveness of this interim final rule.

#### Management Measures

All management measures for this fishery that were in effect prior to May 1, 2002, and not amended by this interim final rule, remain in effect as of August 1, 2002. These measures are not discussed specifically in the description that follows. This interim final rule will implement the following management measures beginning on August 1, 2002, which are designed to reduce overfishing on all “regulated species” managed under the FMP.

#### New Regulated Mesh Areas

This interim action redefines and divides the Gulf of Maine/Georges Bank (GOM/GB) Regulated Mesh Area (RMA) into two areas: The GOM RMA, which is the area north of the GOM cod exemption line currently used to define the areas where the GOM cod and GB cod trip limits apply; and the GB RMA, which is that part of the current GOM/GB RMA that lies south of the GOM cod exemption line and continues south to the EEZ for the areas lying east of 69°00’W. long. The Southern New England (SNE) and Mid-Atlantic (MA) RMAs are also redefined by this interim final rule. The SNE RMA is redefined as the area that lies west of the GB RMA and east of a line beginning at the intersection of 74°00’W. long. and the south-facing shoreline of Long Island, NY, and running southward along the 74°00’W. long. line. The MA RMA is redefined as the area west of the SNE RMA. Specific management measures apply, depending on the area fished. For the purposes of the exempted fishery programs already implemented under the FMP, the GOM/GB and SNE RMAs, as defined under Amendment 7, remain in effect and are referred to as Exemption Areas.

#### DAS Freeze

This measure establishes a new DAS baseline, or “used DAS baseline,” for each vessel, based on the permit history of that vessel. The used DAS baseline for a limited access permit will be calculated based on the highest number of DAS that a vessel(s) fished during a single fishing year using the 1996 through 2000 fishing years, beginning May 1, 1996, through April 30, 2001, not to exceed the vessel’s current DAS allocation in any given year. For vessels where the calculation of the baseline DAS will result in a net amount of DAS less than 10, the vessel will be allocated a used DAS baseline of 10 DAS. If a vessel owner seeks a correction to the determination of a used DAS baseline, he may request such correction from the Regional Administrator by August 31, 2002. A vessel owner’s request for a correction must be in writing and provide credible evidence that the information used by the Regional Administrator in making the determination of the vessel’s used DAS baseline was based on mistaken or incorrect data. The decision to correct a baseline shall be determined solely on the basis of written information submitted, unless the Regional Administrator specifies otherwise. The Regional Administrator’s decision on

the DAS baseline is the final decision of the Department of Commerce.

#### **DAS Effort Reduction**

This measure reduces the vessel's baseline level of used DAS by 20 percent. This measure is specific to the 2002 fishing year, beginning May 1, 2002, through April 30, 2003, and for the 2003 fishing year, beginning May 1, 2003, until implementation of Amendment 13 to the FMP. For the 2002 fishing year, NE multispecies DAS that were fished by a vessel during the period May 1 through July 31, 2002, will be deducted from that vessel's total allocated DAS. That is, each vessel's DAS allocation for August 1, 2002, through April 30, 2003, will be equal to that vessel's used DAS baseline, minus 20 percent of that vessel's used DAS baseline, minus the DAS that vessel fished during May through July, 2002. During the period May 1 through July 31, 2002, all NE multispecies DAS vessels were subject to a minimum of 15 hours for each NE multispecies DAS trip that exceeded 3 hours. For the purposes of determining NE multispecies DAS used during the period May through July, 2002, DAS will be counted based on the 15-hour minimum restriction for Day gillnet vessels only. DAS for all other vessels fishing under a NE multispecies DAS during May through July, 2002, will be counted in terms of actual time spent at sea.

Vessels for which the amount of NE multispecies DAS available for use as of August 1, 2002, is less than or equal to the DAS fished during the May through July 2002, period, the vessel is left with zero NE multispecies DAS for the remainder of the fishing year, unless the vessel had carry-over DAS from the previous fishing year (see description below of how carry-over DAS would apply).

For vessels that have a monkfish Category C or D permit (i.e., vessels that possess both a monkfish and a limited access NE multispecies DAS permit), and for which the NE multispecies DAS reduction will result in the vessel having more monkfish DAS allocated than NE multispecies DAS, such vessels can still fish under a monkfish DAS when NE multispecies DAS are no longer available, but will then be required to fish under the provisions of a monkfish Category A or B vessel, i.e., limited access monkfish vessels that do not possess a limited access NE multispecies permit.

Under this interim final rule, vessels will be allowed to fish any carry-over DAS from the 2001 fishing year beginning August 1, 2002, through April 30, 2003. These carry-over DAS will be

in addition to the vessel's 2002 NE multispecies DAS allocation and will, therefore, be factored into that vessel's total NE multispecies DAS available for the 2002 fishing year, after the 20-percent DAS reduction and after the DAS fished during the May-July period are deducted from that vessel's used DAS baseline.

#### **Freeze on Issuance of New Handgear Permits**

Under this interim final rule, vessels that have never been issued an open access NE multispecies Handgear permit, or that did not apply for an open access Handgear permit by August 1, 2002, will be prohibited from obtaining a Handgear permit for the duration of this action.

#### **Prohibition on Front-loading the DAS Clock**

The term "frontloading the DAS clock" refers to the practice of vessel owners starting their DAS clock well in advance of the actual departure of the vessel. Front-loading was prohibited through July 31, 2002, as a result of the interim rule published April 29, 2002. This interim final rule continues the prohibition for the duration of this action.

Under this measure, a vessel owner or authorized representative will be required to notify NMFS no earlier than 1 hour prior to the vessel leaving port to fish under the NE multispecies DAS program. A day at sea will begin once the call has been received and a confirmation number is given. This measure will apply in all management areas.

#### **Closed Area Additions/Modifications**

This action continues, in its current configuration, the closure of the Western Gulf of Maine (WGOM) Area Closure. This action also expands Rolling Closure Area III by closing area blocks 124 and 125 for the month of May, 2003, and expands Rolling Closure Area IV by closing area blocks 132 and 133 for the month of June, 2003. This action further expands the Georges Bank (GB) Seasonal Closure Area by closing blocks 80 and 81 and the portion of blocks 118-120 that are south of 42°20' N. lat. during the month of May, 2003.

Additionally, the Cashes Ledge Closure Area, in its original configuration, is closed for the duration of the interim final rule.

Exemptions to the current GOM rolling closure areas will remain the same for the expanded rolling closures and the expanded GB Seasonal Closure Area that is implemented by this interim final rule. All of the exemptions

that applied prior to August 1, 2002, still apply to the WGOM and Cashes Ledge Closure Areas, with the following exceptions: Vessels are prohibited from fishing with scallop dredge gear or fishing in the Raised Footrope Trawl Exempted Whiting Fishery.

Finally, this interim action opens an inshore area from January through March, which corresponds to area blocks 124 and 125, by eliminating the groundfish January Massachusetts Bay-Stellwagen Bank Conditional Closure Area and the February Rolling Closure Area VI, and by eliminating blocks 124 and 125 from the March Rolling Closure Area I. All other closure areas remain unchanged. Charts of the proposed closure areas are available from the Regional Administrator upon request (see ADDRESSES).

#### **Gear Restrictions**

##### *Trawl Vessels When Fishing in the SNE RMA*

Under this interim final rule, when fishing any part of a NE multispecies DAS in the SNE RMA, otter trawl vessels are required to fish with a minimum 7.0-inch (17.8-cm) diamond or 6.5-inch (16.5-cm) square mesh codend. This requirement applies only to the codend of the net, which is defined as described above under the GOM and GB trawl mesh restrictions.

##### *Gillnet Vessels When Fishing in the GB RMA*

Under this interim final rule, limited access NE multispecies vessels that fish under a NE multispecies DAS with gillnet gear in the GB RMA at any time throughout the fishing year are required to declare into the Day or Trip gillnet category. Vessels fishing under either the Day or Trip gillnet category in the GB RMA during any part of a trip under a NE multispecies DAS, are required to fish with nets with a minimum of 6.5-inch (16.5-cm) mesh and are restricted from fishing more than 50 nets, with two tags fixed to each net.

##### *Gillnet Vessels When Fishing in the SNE RMA*

Under this interim final rule, limited access NE multispecies vessels that fish under a NE multispecies DAS with gillnet gear in the SNE RMA at any time throughout the fishing year are required to declare into the Day or Trip gillnet category. Vessels fishing under either the Day or Trip gillnet category in the SNE RMA during any part of a trip under a NE multispecies DAS, are required to fish with nets with a minimum of 6.5-inch (16.5-cm) mesh and are restricted from fishing more

than 75 nets, with two tags fixed to each net.

*Gillnet Vessels When Fishing in the MA RMA*

The minimum mesh size restrictions and number of nets required for gillnet vessels when fishing in the MA RMA under a NE multispecies DAS remains unchanged.

*Gillnet Vessels When Fishing Under a Monkfish DAS*

Under this interim final rule, monkfish vessels that have a monkfish limited access Category C or D permit (i.e., vessels that possess both a monkfish and NE multispecies limited access permit) and that are fishing under a monkfish DAS in all areas are restricted from fishing more than 150 nets, provided the vessel fishes with nets with a minimum mesh size of 10 inches (25.4 cm). Vessels are required to affix one tag to each net. Category A and B monkfish vessels are unaffected by these interim final rule measures.

*Large-Mesh Vessel Permit Categories*

Under this interim final rule, vessels that have a valid limited access NE multispecies Large Mesh Individual

DAS category or a Large Mesh Fleet Das category permit are required to fish with nets with mesh that is 2.0 inches (5.1 cm) larger than the current regulated mesh size when fishing under the NE multispecies DAS program. That is, when fishing in the GOM, GB, and SNE RMAs, vessels fishing with trawl nets or sink gillnets are required to fish with nets with a minimum mesh size of 8.5-inch (21.6-cm) diamond or square mesh throughout the entire net. Vessels fishing with trawl nets or sink gillnets when fishing in the MA RMA are required to fish with nets with a minimum mesh size of 7.5-inch (19.0-cm) diamond or 8.0-inch (20.3-cm) square mesh throughout the entire net.

There will be a delay in the effectiveness for certain gillnet, trawl and large mesh categories as a result of the difficulty obtaining new net supplies. Because of the changes in gear requirements, fishermen will need additional time to purchase new supplies and construct nets which conform to the regulations specified in this interim final rule. In addition, the limited availability of larger nets will also make it more difficult for the large-mesh categories to come into

compliance by August 1, 2002. The delayed effectiveness dates for the gear categories are specified in the regulatory text of this interim final rule.

*Hook-Gear Vessels*

Under this interim final rule, vessels that have a valid NE multispecies limited access permit are prohibited from using de-hookers (crucifiers) with less than 6-inch (15.2-cm) spacing between the fairlead rollers. In addition, limited access Small-vessel permitted vessels and limited access permitted vessels that are fishing any part of a NE multispecies DAS trip in the GOM, GB or SNE RMAs are required to use 12/0 or larger circle hooks on longline gear and are subject to a maximum number of rigged hooks on board the vessel. Specifically, vessels fishing in the GOM or SNE RMAs are prohibited from possessing more than 2,000 rigged hooks, and vessels fishing in the GB RMA are prohibited from possessing more than 3,600 rigged hooks.

Table 1 summarizes the gear restriction measures for each gear sector when fishing in the various RMAs.

\* \* \* \* \*

TABLE 1.—GEAR RESTRICTIONS BY REGULATED MESH AREAS

	GOM	GB	SNE	Mid-Atl
<b>Minimum Mesh Size Restrictions for Gillnet Gear</b>				
NE Multispecies Day Gillnet Category *	July-February only: Roundfish nets 6.5" (16.5 cm) mesh; 50-net allowance; 2 tag/net Year-round: Flatfish nets 7.0" (17.8 cm) mesh; 100-net allowance; 1 tag/net	All nets 6.5" (16.5 cm) mesh; 50-net allowance; 2 tag/net	All nets 6.5" (16.5 cm) mesh; 75-net allowance; 2 tags/net	Roundfish nets 5.5" (14.0 cm) diamond or 6.0" (15.2 cm) square mesh; 80-net allowance; 2 tags/net Flatfish nets 5.5" (14.0 cm) diamond or 6.0" (15.2 cm) square mesh; 160-net allowance; 1 tag/net; All gillnet gear 5.5" (14.0 cm) diamond or 6.0" (15.2 cm) square mesh; No net limit; no tag requirement.
NE Multispecies Trip Gillnet Category *	All nets 6.5" (16.5 cm) mesh; 150-net allowance; 1 tags/net	All nets 6.5" (16.5 cm) mesh; 50-net allowance; 2 tags/net	All nets 6.5" (16.5 cm) mesh; 75-net allowance; 2 tags/net	
Monkfish Vessels **	10" (25.4 cm) mesh/150-net allowance  1 tag/net			
<b>Minimum Mesh Size Restrictions for Trawl Gear</b>				
Codend only mesh size *	6.5" (16.5 cm) diamond or square		7.0" (17.8 cm) diamond or 6.5" (16.5 cm) square	
	6.5" (16.5 cm) diamond or square.			

TABLE 1.—GEAR RESTRICTIONS BY REGULATED MESH AREAS—Continued

	GOM	GB	SNE	Mid-Atl
Large Mesh Category—entire net	8.5" (21.59 cm) diamond or square			7.5" (19.0 cm) diamond or 8.0" (20.3 cm) square.
<b>Minimum Number of Hooks and Size Restrictions for Hook-Gear ***</b>				
Limited access multispecies vessels	2,000 hooks	3,600 hooks	2,000 hooks	4,500 hooks (Hook-gear vessels only)
	No less than 6" (15.2 cm) spacing allowed between the fairlead rollers			
	12/0 circle hooks required for longline gear			N/A

\* When fishing under a NE multispecies DAS.

\*\* Monkfish Category C and D vessels when fishing under a monkfish DAS.

\*\*\* When fishing under a NE multispecies DAS or when fishing under the Small-vessel permit.

### Cod Minimum Fish Size (Commercial Vessels)

Under this interim final rule, the minimum size for cod that may be lawfully sold is 22 inches (55.9 cm) (total length).

### NE Multispecies Possession Restrictions

#### *Yellowtail Flounder*

This interim final rule requires enrollment in one of two authorization programs for any possession of yellowtail flounder and implements restrictions on the harvest of yellowtail flounder when fishing west or south of the GB RMA. During the period March 1 through May 31, all vessels are subject to a possession and landing limit of 250 lb (113.4 kg) of yellowtail flounder per trip when fishing any part of a trip in the SNE and MA RMAs north of 40°00' N. lat. In addition, during the period June 1 through February 28, all vessels are subject to a possession and landing limit of 750 lb (340.3 kg) of yellowtail flounder per day, and a maximum trip limit of 3,000 lb (1,361.2 kg) per trip when fishing any part of trip in the SNE and MA RMAs north of 40°00' N. lat. Vessels fishing for yellowtail flounder in the SNE and MA RMAs north of 40°00' N. lat. are allowed to possess and land up to the seasonal yellowtail flounder allowable limits, provided the vessel does not fish south of 40°00' N. lat. and has on board a SNE/MA yellowtail flounder possession/landing authorization issued by the RA. Under this interim final rule, all vessels are prohibited from possessing yellowtail flounder in the MA or SNE RMAs unless fishing north of 40°00' N. lat., or unless the vessel is transiting areas south of 40°00' N. lat. and all fishing gear on board the vessel is properly stowed according to the regulations. Vessels fishing east or north of the SNE RMA are not subject to the yellowtail flounder possession limit restrictions,

provided that the vessel does not fish west of the GB RMA, and possesses on board a GOM/GB yellowtail flounder possession/landing authorization issued by the RA. Vessels exempt from the yellowtail flounder possession limit requirements may transit areas outside of the specific exempted area that they are fishing, provided that their gear is stowed in accordance with one of the provisions of § 648.23(b).

#### *Handgear Permitted Vessels*

Under this interim final rule, the cod, haddock and yellowtail flounder possession limit for vessels that have been issued a valid open access Handgear permit is reduced to 200 lb (90.7 kg), combined, per trip. Such vessels are not required to obtain a yellowtail flounder possession/landing authorization in order to harvest yellowtail flounder, but may not harvest yellowtail flounder south of 40°00' north latitude.

#### *GB Cod Trip Limit Modification*

This action modifies how the DAS clock accrues for those vessels fishing in the GB RMA and harvesting GB cod, consistent with how the DAS clock accrues when fishing in the GOM RMA and harvesting GOM cod. That is, a vessel subject to this landing limit restriction may come into port with, and offload cod in excess of the landing limit, as determined by the number of DAS elapsed since the vessel called into the DAS program, provided that the vessel operator does not call out of the DAS program and does not depart from a dock or mooring in port until the rest of the additional 24-hr block of the DAS has elapsed, regardless of whether all of the cod on board is offloaded.

#### *GOM Cod*

This action increases the daily possession limit for GOM cod from 400 lb (181.8 kg) per DAS to 500 lb (227.3

kg) per DAS. The maximum possession limit remains at 4,000 lb (1,818.2 kg) per trip.

#### *Recreational and Charter/Party Vessel Restrictions*

Under this action, the minimum size for cod and haddock that may be retained by a federally permitted charter/party vessel not on a DAS, or a private recreational vessel not holding a Federal permit and fishing in the EEZ, is 23 inches (58.4 cm) total length.

This action implements a cod and haddock bag (possession) limit for the charter/party recreational fishing sector when a vessel is fishing in the GOM RMA and not under a DAS. During the period April through November, each person on a charter/party vessel not under a DAS is allowed to possess no more than 10 cod or haddock, combined, per trip. For each trip during the period December through March, each person on a charter/party vessel not under a DAS would be allowed to possess no more than 10 cod or haddock combined, no more than 5 of which may be cod. This action further restricts the cod possession limit for private recreational vessels by requiring that, when fishing in the GOM RMA during the period December through March, each person on a recreational vessel is allowed to possess no more than 10 cod or haddock combined, no more than 5 of which may be cod. Cod and haddock harvested by recreational vessels with more than one person aboard may be pooled in one or more containers. Compliance with the possession limit will be determined by dividing the number of fish on board by the number of persons on board.

For a vessel that intends to charter/party fish in the GOM closed areas, this interim final rule requires that the vessel possess on board a letter of authorization (LOA) issued by the RA. This LOA is required for the entire

fishing year if the vessel intends to fish in the year-round GOM closure areas, and for a minimum of 3 months if the vessel intends to fish in the seasonal GOM closure areas. Vessels can obtain

an LOA by calling the NMFS Permit Office at 978-281-9370.

All other existing recreational measures remain unchanged, including the no-sale provision for all fish caught

for both the party/charter and private recreational sectors when not fishing under a NE multispecies DAS. Table 2 summarizes the party/charter and private recreational sector measures.

TABLE 2.—CHARTER/PARTY AND PRIVATE RECREATIONAL FISHING MEASURES

	Minimum fish size, inches cod & haddock <sup>1</sup>	Bag limit (combined)	GOM closure exemption authorization
Charter/party not on a DAs .....	23	April–November: 10 cod/haddock <sup>2</sup> .....	A minimum of 3 months, or duration of closure. December–March: 10 cod/haddock, no more than 5 which can be cod <sup>2</sup> .
Private Recreational .....	23	Areas outside of GOM RMA: 10 cod/haddock .....	N/A GOM RMA: 10 cod/haddock, no more than 5 which can be cod, Dec.–Mar N/A.

<sup>1</sup> All other minimum fish sizes remain unchanged.  
<sup>2</sup> When fishing in the GOM RMA.

**Observer Coverage**

NMFS has been ordered by the Court to expand its observer coverage in the NE multispecies fishery by providing a minimum of 5-percent coverage, or higher if statistically necessary to monitor and collect information on bycatch, as well as other biological and fishery-related information. Additionally, NMFS has been ordered, by May 1, 2003, to expand further its observer coverage to 10% or that level necessary to provide statistically reliable data. NMFS intends to have a program in place in August to provide at least 5% observer coverage in the fishery.

**Comments and Responses**

Twenty nine comments were received on this interim final rule. Because management measures contained in this interim final rule are being implemented as a result of a negotiated Settlement Agreement and a Court Order, NOAA Fisheries has limited discretion to substantively alter the measures that were published in the July 1, 2002, proposed interim rule. Therefore, the following responses reflect the relatively narrow scope of this rule and NMFS' limited discretion in making substantive changes.

*Comment 1:* Several environmental organizations noted that the proposed interim rule did not specify 5% observer coverage and that the status of NMFS' compliance with the Court Order is unclear. They commented that the Environmental Assessment (EA) for the proposed interim rule fails to analyze the level of observers sufficient to monitor bycatch.

*Response:* The proposed interim rule did not specify the level of observer coverage NMFS intends to deploy because it is not necessary to promulgate additional regulations in order to deploy additional observers in the multispecies fishery. NMFS is training and deploying new observers and NMFS reasonably expects to have a program in place to provide at least 5% observer coverage for the period August 1, 2002–April 30, 2003 and, thereafter, at a level of 5% or higher if statistically necessary. Five percent observer coverage represents a substantial increase over the past level of coverage and will provide additional data necessary to determine more precisely the level of observer coverage necessary to provide statistically reliable data.

*Comment 2:* The environmental organizations noted that the EA was inadequate because it failed to contain or adequately address the following elements: a rationale for management measures, a cumulative impact analysis, analysis of impact on fishing mortality, analysis of impact of bycatch minimization, and analysis of Days-at-Sea (DAS) measures.

*Response:* The EA for the August 1 interim rule (June, 2002 EA) contains an adequate discussion of all of the elements noted by the commentator. All of the management measures are intended to reduce fishing mortality on groundfish stocks. It is not practicable or necessary, given the limited scope and context of this interim final rule, to comprehensively address requirements relating to habitat and bycatch, for example, particularly since Amendment 13 will address these issues in a more

comprehensive way. The scope of economic analyses is a 12 month period because the duration of the interim action is expected to be approximately 12 months. The April 2002 EA that pertains to the measures in effect May through July 2002 includes an analysis of impacts due to changes to the DAS accounting system that was implemented for the May to July period. The April EA does not contain an analysis of the impacts due to the DAS freeze and adjustment measures because the May to July measures do not include these management measures.

*Comment 3:* The environmental organizations stated that there is no guarantee that catch levels will not be exceeded (no hard TAC or Vessel Monitoring System (VMS)). One commentator suggested that the EA should have analyzed target and hard TACs for each alternative.

*Response:* As recognized in the Court Order and Settlement Agreement, such a guarantee is not necessarily required for this interim rule given its short term duration and its limited goal of reducing, rather than eliminating, overfishing. The kinds of guarantees referred to by the environmental organizations are elements of the Amendment 13 alternatives under development by the New England Fishery Management Council.

*Comment 4:* The environmental organizations stated that the EA contains no analysis of how the proposed rules relate to statutory objectives, and that under the measures there would be no significant reduction in fishing mortality and DAS would increase.

*Response:* The intent of this interim rule is to reduce overfishing while the Council and NOAA Fisheries develop long-term measures in Amendment 13 that will meet SFA requirements. As agreed to in the Settlement Agreement and endorsed by the Court, these types of measures are more appropriate for Amendment 13. Nevertheless, Section 7.0 of the June EA discusses the compliance of the interim rule to all applicable laws, including the Magnuson-Stevens Act. With respect to the impact of the measures, the number of DAS available for use for the 2002 fishing year is significantly less than the number allocated for the 2001 fishing year, and this will eliminate the possibility of using the majority of the latent DAS current existing in the fishery. Moreover, the number of DAS available to each individual vessel that has recently fished in the fishery will be considerably fewer. The prohibition on frontloading will likely be a factor that contributes to a reduction in the number of total DAS used. The effect of the DAS reductions should be evaluated in the context of the management measures as a whole. For example, the EA estimates that the reduction in fishing mortality for GOM cod due to the combined effects of closed areas, DAS, and trip limits will be 15%. Other restrictions such as the increase in minimum mesh size, gear limitations, and open access category restrictions will further reduce landings of groundfish, although they are difficult to quantify.

*Comment 5:* One industry member suggested a refinement to the requirement to use a minimum hook size of 12/0—specifically, that the restriction be clarified to apply to longline gear and not treble hooks that are fished in a different manner.

*Response:* The final interim rule was revised to incorporate this clarification.

*Comment 6:* Thirteen industry members (Charter/Party) stated that haddock should not be included with cod in the possession limit.

*Response:* According to the March 19, 2002 Final Report of the Working Group on Re-Evaluation of Biological Reference Points for New England Groundfish, both the biomass of Gulf of Maine cod and haddock stocks are at levels lower than is required to produce maximum sustainable yield. A per trip possession limit, therefore, seems to be a necessary precautionary measure that sets a cap on the amount of haddock that can be harvested for this interim measure. Amendment 13 to the FMP will reassess the continuation of this measure.

*Comment 7:* Sixteen industry members (charter/party) stated that the

different charter/party possession limits being established for cod for the Gulf of Maine and Georges Bank were not appropriate. One commentator noted a concern about enforcing the two bag limits.

*Response:* The two stocks of cod are not equivalent. According to the March 19, 2002 Final Report of the Working Group on Re-Evaluation of Biological Reference Points for New England Groundfish, the Gulf of Maine cod stock needs a greater reduction in fishing mortality (F) from the 2001 level of F than does the Georges Bank cod stock in order to achieve the level of F necessary to rebuild the stock. The numbers of Georges Bank cod harvested by charter/party vessels are only a small fraction of the numbers of Gulf of Maine cod harvested by charter/party vessels (MRFSS data; 1998-2001). The EA notes that changes in customer demand may occur, with the possibility that demand will increase for some business and decrease for others. NMFS agrees that the two bag limits may be more difficult to enforce, but feels that most fishers will abide by them. Amendment 13 to the FMP will reassess the continuation and enforceability of this measure.

*Comment 8:* Twelve industry members (charter/party) stated that the cod possession limit was too restrictive, especially from December through March.

*Response:* The party/charter cod possession limit is intended to reduce fishing mortality on the Gulf of Maine stock of cod. Data suggest that the majority of charter/party catch of cod occurs between November and April. Therefore, the measure focuses on the December to March time period. Section 5.2.5.2 of the EA describes the impacts of the charter/party measures and states “\* \* \* it is likely that the majority of economic impacts will be borne by the 20–25 operators whose primary business is in offering groundfish trips to their recreational fishing customers.”

*Comment 9:* Four industry members (charter/party) commented that the haddock minimum size should be 19 inches.

*Response:* According to March 19, 2002 Final Report of the Working Group on Re-Evaluation of Biological Reference Points for New England Groundfish, both the biomass of Gulf of Maine and Haddock stocks are at levels much lower than is required to produce maximum sustainable yield. An increased size limit is a precautionary measure that may enhance stock structure and contribute to increased recruitment.

*Comment 10:* One industry member noted that the Environmental

Assessment (EA) does not adequately discuss the impact on individual DAS category vessels and stated that if gross income were cut by 20% for a vessel there would be no profit, and that such a cut would reduce the income of the crew by greater than 20% due to fixed and trip costs. Two industry members based in Boston commented that the 20% cut in DAS would decrease their annual gross income by 20%, and stated that vessel owners with only a limited access multispecies permit are more impacted than those vessels holding other limited access permits in addition to a multispecies permit. A commenter noted that full-time groundfish vessels will not be able to make up for lost income by fishing in another fishery.

*Response:* These comments are consistent with the conclusions of the economic analyses. The EA in fact states that “As the economic impact analyses indicated, DAS changes would affect active fishers across the board, but would particularly impact, in terms of total DAS usage, those vessels that currently fish their maximum DAS, mostly large vessels, vessels in the Individual permit categories, and vessels with homeport states in Maine, Massachusetts, and New Hampshire.” Data pertaining to the relative distribution of impacts of the DAS reductions are contained in Tables 5.17, 5.18, and 5.19. For vessels that have had a sustained record of groundfish fishing, the 20-percent DAS reduction is likely to represent a “real” reduction in effort. Vessels that rely to a large extent (or solely) on groundfish income will be impacted more than those vessels that rely on groundfish for only a portion of their total fishing income. The EA will be revised to clarify the potential impact on crew income.

*Comment 11:* One commentator noted that the EA did not contain information on the effect of the minimum mesh size increase that is contained in the draft framework 36 document.

*Response:* NMFS concurs, and is revising the final EA to include this information.

*Comment 12:* A comment from several industry associations (The Groundfish Group, Associated Fisheries of Maine, and Trawlers Survival Fund) noted that the EA does not detail the impacts to vessels and provided a range of anticipated landings and revenue losses (26,000 to 179,000 lbs; \$27,000 to \$199,000) per vessel. A commentator from the state of Maine note that the EA underestimates the overall impacts of the action and estimated the loss of revenue to the Maine groundfish vessels at \$8.5 million.

*Response:* The examples provided by the commentor are consistent with the analysis contained in Table 5.26 of the EA that indicate for vessels dependent upon groundfish for at least 75% of fishing income, some vessels may experience an annual reduction in gross revenue of at least 20%. NMFS is revising the final EA to include this information as an example of potential losses.

*Comment 13:* The industry groups noted that the biological impacts analysis in the EA ignores the contribution of some vessels when determining the biological benefits of the 20% DAS reduction, and therefore concludes erroneously that there is no reduction in catch associated with the DAS freeze. The particular vessels under discussion are those vessels for which the DAS reduction is constraining.

*Response:* NMFS agrees with the commentor that DAS reductions will result in a reduction of effort and landings for vessels that historically use most or all of their DAS. However, for the fishery as a whole, it is not possible to predict a reduction in catch due to the DAS freeze because of the total number of DAS that will be available. The EA states "Compared to observed DAS use in FY 2001, this FY 2002 DAS allocation would not necessarily constrain total fishing effort, even though it would be constraining for about half of all vessels that called in DAS in FY 2001."

*Comment 14:* The industry groups indicated that the break-even analysis in the EA was flawed. Specifically they noted the fixed costs are underestimated, that if a vessel is dependent upon groundfishing, the DAS are not sufficient to break even, and the difference in the number of break-even DAS across vessel sizes is not accurate. A commentor for the state of Maine noted that the break-even DAS analysis was too low.

*Response:* NMFS agrees that the number of break-even DAS may not be representative because the fixed costs may be over or under estimated, but it is not possible to be more precise because of limited data. The EA notes the "the cost estimates used for this analysis were based on relatively small sample sizes and the extent to which these data are representative of the population of groundfish vessels by size or gear is unknown." The cost data for trawlers is from 1996 and 1997 survey that have been adjusted for inflation in 2000 dollars. The EA explains that break-even DAS for larger trawl vessels are lower than for small trawlers primarily because of the relative

difference in daily revenue potential is much greater than the relative difference in costs."

*Comment 15:* The industry groups noted that the analysis of the biological and economic impact of the mesh size requirements and limitations to the number of gillnets are inadequately characterized, and estimate anticipated losses at 15% of total year landings per vessel. One commentor noted that the limitation on the number of gillnets on Georges Bank to 50 would make fishing on Georges Bank unprofitable for the trip vessel category.

*Response:* NMFS agrees that the increase in mesh size will likely cause a short run reduction in catch rates for cod and may also affect short-run and long run catch rates for other species. However, NMFS does not believe it is possible or appropriate to make precise predictions in the amount of reduction due to the limited selectivity data, the fact that selectivity differs across species, and the difficulty in making predictions for the fishery based on experimental data. NMFS agrees that the profitability of a fishing vessel on GB may be affected by the 50 net limit, depending primarily upon the number of nets fished in the past.

*Comment 16:* The industry groups noted that there is no analysis of the impacts of the measures on safety in the EA, and stated that the DAS reduction will be an incentive to fish in the fall and winter in order to maximize the value of a DAS.

*Response:* NMFS disagrees that there is no analysis of safety issues in the EA. Section 8.0 contains a discussion of whether the action would be expected to have a substantial adverse impact on public health or safety. The EA will be revised to include the commentor's point about a potential change in fishing patterns.

*Comment 17:* A trawl vessel owner stated that the requirement to use 7" diamond mesh in Southern New England was not appropriate, and that there are no data on the selectivity of this mesh size.

*Response:* Although the EA does not present quantitative information on the impact of a 7.0" diamond mesh because such information is not available, the relationship between mesh size and catch of groundfish is explored. Even though it is difficult to predict the precise impacts of changing the minimum mesh size from the current 6-inch diamond mesh to 7.0-inch diamond, such a change should reduce the probability of selection for groundfish and result in the positive impacts on regulated groundfish that are listed in Section 5.1.6.6 of the EA.

*Comment 18:* A trawl vessel owner stated that the application of the cod-end mesh requirement for the first 50 meshes (diamond mesh) or 100 bars (square mesh) for vessels greater than 45 feet in length was a problem.

*Response:* This application of cod-end mesh requirements is consistent with the way the cod-end has been defined in previous actions in the Northeast Multispecies Fishery Management Plan.

*Comment 19:* One commentor noted that the proposed regulations are too complex to be addressed through an interim rule, but should instead be addressed through public hearings. Another commentor noted that some measures were not fair to those not represented and that the opportunity for public comment under the Magnuson-Stevens Act and Administrative Procedure Act was bypassed.

*Response:* NMFS agrees that the normal process for developing fishery regulations as specified in the Magnuson-Stevens Act would enable better public participation in order to address complex issues. Given the short time available to implement these measures, however, it was not possible to provide for more than a 15 day public comment period. NMFS believes that, in light of the extensive publicity of this interim rule and the fact that the measures contained in the interim rule have been known for over two months, the public has had adequate opportunity to understand and comment on the interim rule.

*Comment 20:* A trip gillnetter commented that the net limits in GOM and GB are too restrictive, that the gillnet sector will bear an unfair share of the conservation burden, and that gillnet effort will be redirected in the GOM. An industry coalition noted that the gear limitations on the gillnet fleet are unfair.

*Response:* Several stocks of groundfish in the GOM and GB regulated mesh areas require significant mortality reductions, and the gillnet restrictions were part of the measures designed to reduce overfishing because such gear is extensively used in the areas where reductions are needed. NMFS agrees that a subset of the gillnet fishery will be affected by both types of gillnet restrictions (mesh size and maximum number of nets), and some effort may be redirected from GB to the GOM, but the impacts are unavoidable due to the areas where depleted stocks occur. The complexity of the FMP makes it difficult to precisely compare the impacts of all regulations across gear sectors. Notwithstanding this comment, the EA concludes that "revenue losses would be greatest for trawl vessels

under the Preferred Alternative, with 50 percent of all trawlers losing at least 1 percent of annual gross income, and with 10 percent of these vessels losing more than 18 percent of annual gross revenue." Amendment 13 to the FMP will reassess the continuation of these measures.

*Comment 21:* One commentator stated that NMFS does not articulate a rational basis for relying on section 305(c) of the Magnuson-Stevens Act as the authority for use of an interim rule.

*Response:* Section 305(c)(1) clearly states the following: "If the Secretary finds that an emergency or overfishing exists or that interim measures are needed to reduce overfishing for any fishery, he may promulgate emergency regulations or interim measures necessary to address the emergency or overfishing, without regard to whether a fishery management plan exists for such fishery." In this case, it is necessary to promulgate interim measures in order to reduce overfishing.

*Comment 22:* One commentator noted that the EA fails to present environmental impacts in a useful form to the public because it does not discuss certain analyses in the context suggested by the commentator.

*Response:* Whereas analysis of impacts can always be presented differently, as long as the public is able to understand them and draw their own conclusions, such analyses are sufficient for purposes of an EA. The June EA, as well as other recent documents provide the public adequate information in order to make comparisons, as evidenced by the table produced by the commentator.

*Comment 23:* One commentator noted that the FONSI in the EA was not justified.

*Response:* The Finding of No Significant Impact was based upon the nine criteria in the National Oceanic and Atmospheric Administration Administrative Order (NAO) 216-6. The significance of this action is analyzed in the context of the fact that it is the second step in a three-step process agreed to as a compromise in a lawsuit to bring the FMP into full compliance with the SFA, the Magnuson-Stevens Act and all other applicable law as quickly as possible. It is a short-term interim measure that should not result in a significant impact.

*Comment 24:* One commentator stated that the biological objectives were not clearly defined.

*Response:* The biological objective of reducing overfishing is clearly stated and is consistent with the concept of interim rules as defined in the

Magnuson-Stevens Act. The goals are limited in scope and are temporary.

*Comment 25:* One commentator noted that the inshore GOM measures are unjustified.

*Response:* The inshore GOM is the area where several overfished stocks occur and a significant amount of the catch occurs. For example, because most of the catch of the Gulf of Maine stock of cod is from the inshore GOM area, many management measures necessarily must focus on that area. Amendment 13 to the FMP will reassess the continuation of these measures.

*Comment 26:* Two commentators stated that the DAS reductions are unfair due to the method of calculating the baseline.

*Response:* The criterion for establishing the baseline was chosen as a compromise with industry and state managers to lessen impact on vessels as much as possible. NMFS recognizes that for some few vessel owners the criterion may result in more severe impacts. These more severe impacts are unavoidable, however for such a broadly based measure. The conservation benefits of having a reduced overall cap on the amount of effort available for this fishery, on balance, justifies the freeze despite the more severe impacts on a few vessel owners. Since this freeze is short term only, these more severe impacts can be addressed in the development of Amendment 13.

*Comment 27:* One commentator noted that the change in the boundary of the Southern New England Regulated Mesh Area (SNE RMA) will impact other fisheries.

*Response:* Although the SNE RMA will impact the groundfish fishery, the impact will be minimal on other fisheries due to the fact that the previous definition of the SNE RMA will be retained for the purposes of exempted fisheries and redesignated the Southern New England Exemption Area.

*Comment 28:* One commentator stated that the EA fails to consider the impacts on communities and fishery infrastructure.

*Response:* Section 5.2.2.3.6 of the EA describes the economic impact of the measures on communities by port group. Section 5.2.6 describes the impact on industries in communities associated with the harvest sector.

*Comment 29:* One commentator was concerned that the regulations favor the gillnet sector because the gillnet regulations are unenforceable.

*Response:* NMFS agrees that the gillnet regulations may be complex and difficult to enforce, but believes that most fishers will abide by them.

Amendment 13 to the FMP will reassess the continuation and enforceability of these measures.

*Comment 30:* One commentator was concerned that the final interim rule would interpret the Court's Order with respect to the open access handgear category trip limit as 200 lb of regulated species per trip instead of 200 lb of cod, haddock, and yellowtail, and noted that this decreased trip limit was in contrast to the GOM cod trip limit increase for limited access vessels.

*Response:* The open access trip limit is as written in the proposed interim rule (200 lb of cod, haddock, and yellowtail). A justification for the contrasting change in trip limits is the fact that the discards are a very serious problem in the limited access trawl fishery that represent a significant source of mortality for GOM cod. An increase in the GOM cod trip limit will improve this problem.

#### Changes to the Proposed Interim Rule

The following changes are corrections or modifications to the proposed interim rule to clarify and better reflect the intent of the measures contained in the Settlement Agreement, as well as the FMP. These changes are listed below in the order that they appear in the regulations.

In § 648.4, paragraph (a)(1)(i)(I)(2) is revised to reflect the fact that if a vessel changes permit category (into or out of one of the large mesh categories), the associated DAS may have to be adjusted accordingly.

In § 648.14, paragraph (a)(125) is revised to reflect that the frontloading prohibition applies only to vessels fishing under a multispecies DAS and to vessels with a limited access monkfish Category C or D permit when fishing under a monkfish DAS and a multispecies DAS at the same time. The prohibition on frontloading does not apply to Category C and D vessels when fishing under the limited access monkfish Category A or B only in the event the vessel is allocated less than 40 multispecies DAS for the fishing year, as allowed under § 648.92(b)(2).

In § 648.14, paragraph (b)(1) is revised to reflect the prohibition specific to the possession limits and landing restrictions for yellowtail flounder.

In § 648.14, paragraph (b)(4) is revised to clarify that vessels may not fish for, land, or possess yellowtail flounder unless in compliance with the provisions of the trip landings and/or possession limits specified in § 648.86(h).

In § 648.14, paragraph (b)(5) is removed and reserved since this

prohibition is repeated in paragraph (b)(4) of this section.

In § 648.14, paragraph (c)(8) is revised to reflect the restrictions on fishing and gear when fishing in the MA RMA, as specified in §§ 648.80(c), and to clarify that, when fishing with hook-gear in the GOM, GB, and SNE RMAs, the limitations on number, size, and type of hooks and the prohibition on the use of dehookers are specific to all limited access multispecies vessels fishing under a multispecies DAS, and vessels fishing under the limited access Small vessel permit, when fishing with hook-gear.

In § 648.14, paragraph (c)(20) is removed and reserved as reflected in the amendatory language in the proposed interim rule.

In § 648.14, paragraph (c)(32) is removed and reserved since the reference in this paragraph is incorrect and the correct references are stated in paragraph (c)(13) of this section.

In § 648.80, paragraph (a)(2)(iii), is corrected by changing the GB Regulated Mesh Area W. long. coordinate point NL2 to read 69°40', rather than 69°00'.

In § 648.80, paragraphs (a)(3)(iii), (a)(3)(iv)(B), (a)(4)(i), (a)(4)(iii), (a)(4)(iv), (b)(2)(i), (b)(2)(iii), (c)(2)(i), and (c)(2)(iii) are revised to delay implementation of the mesh size requirements for the trawl and gillnet mesh in GB, gillnet mesh in SNE, gillnet mesh in GOM, SNE trawl mesh, MA trawl mesh, and for the large mesh permit categories.

In § 648.80, paragraph (c)(2)(i), (ii), and (iii) are revised to implement the MA trawl mesh restriction that was omitted in the proposed interim rule.

In § 648.80, paragraphs (a)(3)(v), (a)(4)(v) and (b)(2)(v) are revised to clarify that the limitations on number, size, and type of hooks and the prohibition on the use of dehookers are specific to all limited access multispecies vessels fishing under a multispecies DAS, and vessels fishing under the limited access Small vessel permit, when fishing with hook-gear. A change was made to clarify to reflect that the size restriction applies to longline gear hooks only.

In § 648.80, paragraph (b)(9)(i)(B) is revised since it was mistakenly reserved in the proposed interim rule. This paragraph, which allows the retention of bonito as an allowable incidental species when fishing in the SNE Little Tunny Gillnet Exemption Area, has been reinstated and modified to remove the requirement for vessels to obtain an exempted fishing permit from the Highly Migratory Species (HMS) Division since bonito are no longer contained in the HMS management unit.

In § 648.80, paragraph (c)(2)(iv) is revised to clarify that the prohibition on the use of dehookers is specific to all limited access multispecies vessels fishing under a multispecies DAS, and vessels fishing under the limited access Small vessel permit, when fishing with hook-gear.

In § 648.81, paragraphs (c)(2)(iii)(B) and (g)(2)(iii)(B) are corrected to state that charter/party vessels, when fishing under the closed area exemptions in the GOM Rolling Closure Areas, the WGOM Closure Area, Cashes Ledge Closure Area, or Nantucket Lightship Closure Area, "With the exception of tuna, fish harvested or possessed by the vessel are not sold or intended for trade, barter or sale, regardless of where the regulated species are caught" rather than "may not possess or sell fish." A review of the record for the development and implementation of the final rule promulgating Framework 33, which implemented this provision, including the framework document, meeting transcripts, and pertinent rules, indicate that the intent of the Council regarding the charter/party exemption in these closure areas was to prohibit the sale of species managed by New England and Mid-Atlantic Fishery Management Councils, and not tuna.

In § 648.82, paragraph (k)(1)(ii)(B) is revised to clarify net tag requirements.

In § 648.82, paragraph (k)(2)(i) has been revised to state that multispecies vessels fishing under a NE multispecies DAS are not limited to the number of nets that can properly be stowed on board the vessel since, unlike Day gillnet vessels, Trip gillnet vessels are not restricted to a specific number of nets when fishing in the MA RMA.

In § 648.82, paragraph (k)(2)(ii) has been corrected to reflect that vessels must have written confirmation that the vessel is a Trip gillnet vessel, rather than a Day gillnet vessel.

In § 648.82, paragraph (l)(3)(i), is corrected by changing § 648.80(l) to read § 648.82(l).

In § 648.82, paragraphs (l)(3)(i) and (ii) are revised to clarify that DAS baselines may be "corrected" (as opposed to "appealed").

In § 648.86, paragraphs (h)(1), (h)(1)(ii), (h)(2), and (h)(2)(ii) are revised to reflect that the yellowtail flounder possession and landing limit restrictions north of the 40°00' N. lat. and west of the GB RMA are specific to both the SNE and MA RMAs, rather than just the SNE RMA, and/or to clarify that this restriction pertains to vessels fishing under both a multispecies DAS and a monkfish DAS, if, when fishing under a monkfish DAS, the vessel is fishing under the limited access monkfish

Category C or D permit provisions. Paragraphs (h)(1) and (2) have also been revised to reflect that more restrictive yellowtail flounder trip limits apply when fishing with a NE limited access Small Vessel permit category, as specified under § 648.82(b)(3), and when fishing with an open access NE multispecies permit, as specified under § 648.88. Further explanation is provided that a vessel owner is required to contact a designee of the Regional Administrator in order to obtain a yellowtail exemption letter.

In § 648.86, paragraph (h)(3) is revised to reflect that the prohibition on possessing yellowtail flounder is specific to areas south of 40°00' N. lat. within the SNE and MA RMAs, or when not in possession of a valid yellowtail flounder exemption letter issued by the RA.

In § 648.88, paragraph (c) has been revised to reflect that vessels fishing with an open access Scallop multispecies possession limit permit may be further restricted by the yellowtail flounder trip limit restrictions specified in § 648.86(h).

In § 648.92, paragraph (b)(2) is revised to reflect that limited access monkfish Category C and D vessels may fish under the monkfish Category A or B provisions when its allocation of multispecies DAS is less than 40 for the entire fishing year of May 1 through April 30.

In § 648.92, paragraph (b)(8)(i) is revised to reflect that the 150 gillnet limitation stated in the proposed interim rule is specific to vessels issued a monkfish limited access Category C or D permit only and that vessels issued a limited access Category A or B permit may continue to fish with up to 160 gillnets.

NOAA codifies its OMB control numbers for information collection 15 CFR part 902. Part 902 collects and displays the control numbers assigned to information collection requirements of NOAA by OMB pursuant to the Paperwork Reduction Act (PRA). This final rule codifies OMB control number for 0648-0457 for §§ 648.82 and 648.86. Under NOAA Administrative Order 205-11, dated December 17, 1990, the Under Secretary for Oceans and Atmosphere, NOAA, has delegated to the Assistant Administrator for Fisheries, NOAA, the authority to sign material for publication in the **Federal Register**.

#### Classification

Because this rule must be made effective by August 1, 2002, pursuant to Court Order, and because of the need to maintain management measures to provide protection from overfishing to

the groundfish stocks, there is good cause under the Administrative Procedure Act pursuant to 5 U.S.C. 553(d)(1) to waive the 30-day delay in effective date for this rule.

This interim final rule has been determined to be significant for purposes of Executive Order 12866.

### Final Regulatory Flexibility Analysis

The proposed interim rule to implement the Court Order/Settlement Agreement was published in the **Federal Register** on July 1, 2002. A copy of the Initial Regulatory Flexibility Analysis (IRFA) is available from the Regional Administrator (see **ADDRESSES**). In addition to the discussion below, the Final Regulatory Flexibility Analysis (FRFA) incorporates the IRFA and its findings, the finding from the EA, and the public comments and responses. Because all entities affected by this interim final rule are small entities, all of the comments and responses are considered to pertain to small entities. In the Comments and Responses portion of this interim final rule, comment numbers 7,8,10,12,14, and 15 summarize the nine comments submitted that primarily address the possible economic affects of the action (where different commentors address the same issue the issue is not repeated). No changes to the proposed regulations are necessary as a result of these comments as they reflect an unavoidable consequence of the rule. A description of the action, why it is being considered, and the legal basis for this action are contained at the beginning of the preamble and in the **SUMMARY** section of the preamble and in the FRFA.

The FRFA considered three alternatives: The Preferred Alternative, the No Action Alternative, and a Hard TAC Alternative. This interim final rule implements the Preferred Alternative. Analysis of the Preferred Alternative examined the impacts on industry that would result from the Settlement Agreement. Analysis of the No Action alternative examined the impacts on industry that would result from leaving all current management measures in place and allowing fishing inside the WGOM Area Closure. Analysis of the hard TAC alternative examined the impacts to the industry under two different options for how TACs would be implemented: Option 1 was based on achieving a zero fishing mortality rate for all stocks that would have a zero management TAC under Amendment 9 to the FMP; Option 2 assumed that, rather than reducing fishing mortality to absolute zero for those stocks with a

management TAC of zero under Amendment 9, management measures would reduce the fishing mortality on those stocks to as close to zero as possible. The economic impacts of the first two alternatives were analyzed and described according to the type of management measure as follows: (a) Commercial measures that were modeled (DAS restrictions, area closures, and trip limits); (b) commercial measures that were not modeled (changes to the open access hand gear category, prohibition on frontloading, prohibition on de-hooker use, mesh size restrictions, and limitations on the number of gillnets and hooks); and (c) recreational measures (private recreational vessel and party/charter). The hard TAC alternative is a fundamentally different type of management scheme and was examined in terms of the economic impacts that would result under the two TAC options that were considered. Option 1 would result in a total closure of GB, a significant portion of southern New England, and Long Island Sound to all gear that is capable of catching groundfish in any significant numbers. Option 2 would result in approximately a 35-percent reduction in the total number of DAS used by all vessels in 1999—a significant reduction in effective effort across the entire commercial fishery.

This final action (preferred alternative in FRFA) would have a nominal effect on all NE multispecies permit holders (1,442 limited access, 1,812 open access hand gear, and 610 open access party/charter), all of which may be considered small entities according to the Small Business Administration standards for commercial fishing vessels. The number of actual participants in the NE multispecies fishery is less than the total number of those eligible to participate in the fishery (i.e., not every vessel holding a permit for the fishery actually fishes in a given year); the number of participating vessels that may actually be affected by any one or more of the regulatory measures is estimated to be 37 percent of the permit holders.

The implemented measures could result in an aggregate reduction in total groundfish income of 4.2 percent. On an individual vessel basis, about 25 percent (approximately 250) of the participating limited access vessels could experience at least a 5-percent loss in gross annual fishing revenues (relative to the No Action Alternative). Ten percent of the participating limited access vessels could experience at least a 16-percent loss in gross annual fishing revenues. In contrast, fishing revenues could

increase for approximately 25 percent of the vessels due to modifications in the area closures and an increase in the GOM cod trip limit. Among those adversely impacted, small otter trawl vessels could be most affected. Vessels positively affected would be gillnet or hook vessels, due to the increase in the GOM cod trip limit and the fact that, for these vessels, cod constitutes a much higher proportion of their total fishing income than it does for other vessels. Detailed cost data, and the analytical tools necessary for calculation of profitability changes that could result from the implemented measures were not available. While profitability of small entities could be affected, it was not possible to estimate such changes. Similarly, it was not possible to estimate the impacts of this action on solvency of small entities. Furthermore, because this is only an interim action, analysis of impacts on long-term profitability or solvency of small entities, even if the necessary data were available, would not be appropriate. NMFS does not have the data to make a determination regarding long-term profitability or solvency at this time. Although NMFS requested comments on this issue during the comment period, none were received. Long-term impacts will be analyzed in association with Amendment 13 to the FMP, which will replace this interim action.

For some vessel owners, the new DAS restrictions will not allow them to fish the number of days that they would need to cover their fixed costs. Based on a break-even analysis, the number of such vessels could be as high as 213 vessels (22 percent). This estimate, however, may be an overestimation, due to limitations in the data. Further explanation of the break-even analysis is contained in section 5.2.3.3 of the Environmental Assessment.

The reduction in the trip limit for the open access hand gear permit category could affect about one half of the 172 permit holders that reported fishing activity. The average loss was estimated to be \$33,700 per vessel. The impact of the front-loading prohibition was estimated based on landings associated with front-loading trips. The prohibition could decrease income by approximately \$911 to \$1,450 per trip. The following table summarizes the estimated cost to replace trawl codends and gillnet gear that could result from these changes in mesh size requirements.

TABLE 3.—ECONOMIC IMPACT OF MESH SIZE INCREASE—(GEAR REPLACEMENT)

Gear	No. of vessels analyzed	Average vessel cost
Trawl (replace codend) .....	424 (GOM or GB) 211 SNE .....	\$1,250
Day Gillnet in GOM (tie-down nets) .....	18 .....	7,794
Day Gillnet in GOM (stand-up nets) .....	31 .....	9,300
Trip Gillnet in GOM .....	25 .....	18,352
Gillnets in GB or SNA .....	32 .....	8,800

The implemented measures (for GOM cod) affecting charter/party vessels may result in a loss of revenue due to decreased passenger demand. Based on historic cod landings, the majority of economic impacts will likely be borne by the 20–25 charter/party operators that catch 80 percent of the recreationally harvested GOM cod.

Although there are alternative sets of management measures to those implemented by this interim final rule that would accomplish the objectives, this interim final rule represents the measures agreed to in the Settlement Agreement that was negotiated by numerous interested parties and ordered by the Court.

Relative to the Preferred Alternative that is implemented, the No Action Alternative would have mitigated most of the adverse economic impacts associated with the Preferred Alternative. In general, gross fishing incomes would have increased, particularly for vessels operating in the GOM and would have particularly beneficial impacts on small vessels and gillnet vessels in general. However, the No Action alternative also would have resulted in unacceptably high increases in fishing mortality rates that could have compromised the rebuilding of several GOM stocks, GOM cod in particular. For this reason, the No Action alternative would not have met the regulatory objectives of this action.

Relative to the Preferred Alternative, the Hard TAC Alternative would have more significantly impacted the NE multispecies fishery because of the severe consequences of closing down fisheries when a TAC is reached. The economic and social impacts of either option considered under this alternative would have been very severe, if not irreparable. Option 1 would have severely impacted (essentially done away with) the NE multispecies fishery on GB and southern New England in the near term, and would have largely prohibited the monkfish, sea scallop, and spiny dogfish fisheries from operating in that area, as well. Option 2 would have prohibited hook and groundfish gillnet gear from GB and allow some low level of trawl fishing,

but with a bycatch trigger for GB cod that would have likely closed the fishery at sometime during the fishing year. Many small entities might have either gone out of business or had to relocate. To the extent that participants in the industry could do so, many would have been expected to shift effort into other fisheries for which they had permits or could acquire permits for, or that are open access, and/or would have shifted fishing effort northward, to the GOM, or to south of GB. Fisheries that did not use gear capable of catching groundfish, such as purse seines, traps, and mid-water trawls, would have been unaffected by the restrictions, but could have experienced increases in effort displaced from the groundfish, monkfish, scallop, and other fisheries that would have been restricted under Option 1. The primary impact on the recreational fishery would have been the prohibition on retention of GB cod. In any event, neither the No Action Alternative nor the Hard TAC Alternative could have been implemented because they were not agreed to in the Settlement Agreement endorsed by the Court.

An informal consultation under section 7 of the Endangered Species Act was conducted for this interim final rule under the FMP on June 14, 2002. As a result of the informal consultation, the RA determined that fishing activities conducted under this interim final rule are not likely to adversely affect endangered or threatened species or critical habitat. The RA has determined that fishing activities conducted under this interim final rule will have no adverse impact on marine mammals.

The compliance requirements associated with the proposed measures are the two yellowtail exemption programs described previously in this document, and the used DAS baseline appeal procedure, if applicable.

This final action does not duplicate other Federal rules and takes into consideration the monkfish regulations under § 648.92 in order to be consistent with the objectives of the Monkfish Fishery Management Plan.

This interim final rule includes new collection-of-information requirements

and references to previously-approved requirements subject to the Paperwork Reduction Act (PRA). The following collection-of-information requirements have been previously approved by OMB under control number 0649–0202. The estimated times per response for these collections are as follows: 30 minutes for a new vessel permit application; 15 minutes for a renewal application for a vessel permit; 3 minutes for a gillnet annual declaration and request for tags; 1 minute for attaching a gillnet tag; 2 minutes to report lost and/or ask for replacement of lost gillnet tags; 2 minutes for a DAS notification; 2 minutes for a transit report for a vessel that has exceeded the cod landing limit; and 5 minutes to request an LOA for either the Cultivator shoals, Nantucket shoals dogfish, Nantucket lightship, SNE little tunny gillnet, small-mesh northern shrimp fishery, mid-Atlantic, Rolling Closure Area charter/party boat, and GOM charter/party boat exemption programs. Requests for an LOA for the whiting raised footrope trawl exempted fishery have been approved under OMB control number 0648–0422, with an estimated response time of 2 minutes.

This action contains two new collection-of-information requirements subject to PRA. The collection of this information has been approved by OMB, OMB control number 0648–0457. A response time of 2 minutes has been estimated for requests for entry into one of two exemption programs for vessel owners choosing to fish for yellowtail flounder in the SNE/MA, GB/GOM RMAs. A response time of 2 hours has been estimated for appeals of used baseline DAS determinations.

The aforementioned response estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collections of information. Send comments regarding these burden estimates, or any other aspect of the data requirements, including suggestions for reducing the burden, to NMFS and OMB (see ADDRESSES).

Notwithstanding any other provision of the law, no person is required to

respond to, and no person shall be subject to 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.

**List of Subjects**

15 CFR Part 902

Reporting and recordkeeping requirements.

50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: July 29, 2002.

**Rebecca Lent,**

*Deputy Assistant Administrator for Regulatory Programs, National; Marine Fisheries Service.*

For the reasons stated in the preamble, 15 CFR part 902, chapter IX, and 50 CFR part 648, chapter VI are amended as follows:<sup>1</sup>

**15 CFR Chapter IX**

**PART 902—NOAA INFORMATION COLLECTION REQUIREMENTS UNDER THE PAPERWORK REDUCTION ACT: OMB CONTROL NUMBERS**

1. The authority citation for part 902 continues to read as follows:

**Authority:** 44 U.S.C. 350 *et seq.*

2. In § 902.1, the table in paragraph (b) under 50 CFR is amended by revising the entries for 648.82 and 648.86 to read as follows:

**§ 902.1 OMB control numbers assigned pursuant to the Paperwork Reduction Act.**

CFR part or section where the information collection number is located	Current OMB control number (all numbers begin with 0648—)
50 CFR:	
648.82 .....	-0202 and -0457
648.86 .....	-0202, -0391, and -0457

<sup>1</sup> The amendments to 50 CFR part 648 published at 67 FR 21140 (April 29, 2002) are effective through July 31, 2002.

**50 CFR Chapter VI**

**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 § 648.2, the definitions of “Non-exempt species,” and “Prior to leaving port” are revised, and new definitions for “De-hooker,” “Private recreational fishing vessel,” and “Used DAS baseline” are added in alphabetical order, to read as follows:

**§ 648.2 Definitions.**

*De-hooker*, with respect to the NE multispecies hook gear fishery, means the fairlead rollers when used in a manner that extracts fish hooks from caught fish, also known as “crucifiers.”

*Non-exempt species* means species of fish not included under the GOM, GB and SNE Regulated Mesh Area exempted fisheries, as specified in § 648.80(a)(5); (a)(6); (a)(9) through (14); (b)(3)(i) and (ii); (b)(5) through (8); and (d), (e), (h), and (i).

*Prior to leaving port*, with respect to the call-in notification system for NE multispecies, and the call-in notification system for monkfish vessels that are fishing under the limited access monkfish Category C or D permit provisions, means no more than 1 hour prior to the time a vessel leaves the last dock or mooring in port from which that vessel departs to engage in fishing, including the transport of fish to another port. With respect to the call-in notification system for monkfish vessels that are fishing under the limited access monkfish Category A or B permit provisions, it means prior to the last dock or mooring in port from which a vessel departs to engage in fishing, including the transport of fish to another port.

*Private recreational fishing vessel*, with respect to the NE multispecies fishery, means a vessel engaged in recreational fishing that has not been issued a Federal NE multispecies permit, does not sell fish, and does not take passengers for hire.

*Used DAS baseline*, with respect to the NE multispecies fishery, means the number of DAS that represent the historic level of DAS use associated with a particular limited access permit, as described in § 648.82(l).

3. In § 648.4, paragraphs (a)(1)(i)(I)(2) and (c)(2)(iii) are revised to read as follows:

**§ 648.4 Vessel permits.**

(a) \* \* \*  
 (1) \* \* \*  
 (i) \* \* \*  
 (I) \* \* \*  
 (2) The owner of a vessel issued a limited access multispecies permit may request a change in permit category, unless otherwise restricted by paragraph (a)(1)(i)(I)(1) of this section. The owner of a limited access multispecies vessel eligible to request a change in permit category must elect a category upon the vessel’s permit application and will have one opportunity to request a change in permit category by submitting an application to the Regional Administrator within 45 days of the effective date of the vessel’s permit, unless otherwise allowed under § 648.82(b). If such a request is not received within 45 days, the vessel owner may not request a change in permit category and the vessel permit category will remain unchanged for the duration of the fishing year. Changes in permit category may require adjustments in DAS allocation. A vessel may not fish in more than one multispecies permit category during a fishing year, unless otherwise allowed under § 648.82(b).

(c) \* \* \*  
 (2) \* \* \*  
 (iii) An application for a limited access multispecies permit must also contain the following information: For vessels fishing for NE multispecies with gillnet gear, with the exception of vessels fishing under the Small Vessel permit category, an annual declaration as either a Day or Trip gillnet vessel designation as described in § 648.82(k). A vessel owner electing a Day or Trip gillnet designation must indicate the number of gillnet tags that he/she is requesting and must include a check for the cost of the tags. A permit holder letter will be sent to the owner of each eligible gillnet vessel informing him/her of the costs associated with this tagging requirement and directions for obtaining tags. Once a vessel owner has elected this designation, he/she may not change the designation or fish under the other gillnet category for the remainder of the fishing year, unless otherwise allowed in this paragraph. For the 2002 fishing year, vessels electing a Day or Trip gillnet designation will be allowed to change their designation prior to September 1, 2002, and will be allowed to fish under this new designation

during the period September 1, 2002, through April 30, 2003. Incomplete applications, as described in paragraph (e) of this section, will be considered incomplete for the purpose of obtaining authorization to fish in the NE multispecies gillnet fishery and will be processed without a gillnet authorization.

\* \* \* \* \*

4. In § 648.10, paragraph (c)(1) is revised to read as follows:

**§ 648.10 DAS notification requirements.**

\* \* \* \* \*

(c) \* \* \*

(1) Less than 1 hour prior to leaving port, for vessels issued a limited access NE multispecies permit or, for vessels issued a limited access NE multispecies permit and a limited access monkfish Category C or D permit, and, prior to leaving port for vessels issued a limited access monkfish Category A or B permit, 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, or when a vessel leaves port, whichever occurs first.

\* \* \* \* \*

5. In § 648.14, paragraphs (a)(35), (a)(42), (a)(43), (a)(45), (a)(47), (a)(52), (a)(102), (a)(112), (a)(116), (b)(1), (b)(2), (c)(7), (c)(8), (c)(13) through (15), (c)(23), (c)(26), (c)(29), (c)(31), and (z)(2)(i) are revised, paragraphs (a)(123) through (126), (b)(3) through (4), (c)(32) and (c)(33) are added, and paragraph (c)(20) is removed and reserved, to read as follows:

**§ 648.14 Prohibitions.**

(a) \* \* \*

(35) Fish with, use, or have on board, within the areas described in § 648.80(a)(1) and (2), nets with mesh size smaller than the minimum mesh size specified in § 648.80(a)(3) and (4), except as provided in § 648.80(a)(5) through (8), (a)(9), (a)(10), (a)(15), (d),(e), and (i), unless the vessel has not been issued a NE multispecies permit and fishes for NE multispecies exclusively in state waters, or unless otherwise specified in § 648.17.

\* \* \* \* \*

(42) Fish within the areas described in § 648.80(a)(6) with nets of mesh smaller

than the minimum size specified in § 648.80(a)(3) or (4).

(43) Violate any of the provisions of § 648.80, including paragraphs (a)(5), the small-mesh northern shrimp fishery exemption area; (a)(6), the Cultivator Shoal whiting fishery exemption area; (a)(9), Small-mesh Area 1/Small-mesh Area 2; (a)(10), the Nantucket Shoals dogfish fishery exemption area; (a)(12), the Nantucket Shoals mussel and sea urchin dredge exemption area; (a)(13), the GOM/GB monkfish gillnet exemption area; (a)(14), the GOM/GB dogfish gillnet exemption area; (a)(15), the Raised Footrope Trawl Exempted Whiting Fishery; (b)(3), exemptions (small mesh); (b)(5), the SNE monkfish and skate trawl exemption area; (b)(6), the SNE monkfish and skate gillnet exemption area; (b)(7), the SNE dogfish gillnet exemption area; (b)(8), the SNE mussel and sea urchin dredge exemption area; or (b)(9), the SNE little tunny gillnet exemption area. Each violation of any provision in § 648.80 constitutes a separate violation.

\* \* \* \* \*

(45) Fish for, harvest, possess, or land in or from the EEZ northern shrimp, unless such shrimp were fished for or harvested by a vessel meeting the requirements specified in § 648.80(a)(5).

\* \* \* \* \*

(47) Fish for the species specified in § 648.80(d) or (e) with a net of mesh size smaller than the applicable mesh size specified in § 648.80(a)(2) or (3), (b)(2), or (c)(2), or possess or land such species, unless the vessel is in compliance with the requirements specified in § 648.80(d) or (e), or unless the vessel has not been issued a multispecies permit and fishes for NE multispecies exclusively in state waters, or unless otherwise specified in § 648.17.

\* \* \* \* \*

(52) Enter, be on a fishing vessel in, or fail to remove gear from, the EEZ portion of the areas described in § 648.81(g)(1) through (i)(1), and (n)(1), except as provided in § 648.81(d), (g)(2), (h)(2), (i)(2), and (n)(2).

\* \* \* \* \*

(102) Enter or fish in the Gulf of Maine, Georges Bank, and Southern New England Regulated Mesh Areas, except as provided in §§ 648.80(a)(3)(vi) and (b)(2)(vi), and for purposes of transiting, provided that all gear (other than exempted gear) is stowed in accordance with § 648.23(b).

\* \* \* \* \*

(112) Fish for, harvest, possess, or land in or from the EEZ, when fishing with trawl gear, any of the exempted species specified in § 648.80(a)(9)(i),

unless such species were fished for or harvested by a vessel meeting the requirements specified in § 648.80(a)(5)(ii) or (a)(9)(ii).

\* \* \* \* \*

(116) Fish for, harvest, possess, or land any species of fish in or from the GOM/GB Inshore Restricted Roller Gear Area described in § 648.80(a)(3)(v) with trawl gear where the diameter of any part of the trawl footrope, including discs, rollers or rockhoppers, is greater than 12 inches (30.48 cm).

\* \* \* \* \*

(123) Fish for, land, or possess NE multispecies harvested with the use of de-hookers ("crucifiers") with less than 6-inch (15.2-cm) spacing between the fairlead rollers unless the vessel has not been issued a multispecies permit and fishes for NE multispecies exclusively in state waters.

(124) Possess or use de-hookers ("crucifiers") with less than 6-inch (15.2-cm) spacing between the fairlead rollers while in possession of NE multispecies, unless the vessel has not been issued a multispecies permit and fishes for NE multispecies exclusively in state waters.

(125) For vessels issued a limited access NE multispecies permit, or those issued a limited access NE multispecies permit and a limited access monkfish Category C or D permit but not fishing under the limited access monkfish Category A or B provisions as allowed under § 648.92(b)(2), call into the DAS program prior to 1 hour before leaving port.

(126) Call in DAS in excess of that allocated under the methods described in § 648.82(l).

(b) \* \* \*

(1) Land, or possess on board a vessel, more than the possession or landing limits specified in § 648.86(a), (b), (c), (d), (e), and (h) or to violate any of the other provisions of § 648.86, unless otherwise specified in § 648.17.

(2) If the vessel has been issued a charter/party permit or is fishing under charter/party regulations, fail to comply with the requirements specified in § 648.81(g)(2)(iii) when fishing in the areas described in § 648.81(g)(1) through (i)(1), during the time periods specified in those sections.

(3) Possess in, or harvest from the EEZ southward of 40°00' N. lat., any yellowtail flounder unless fishing under recreational or charter/party regulations, or transiting in accordance with § 648.23(b).

(4) Fish for, land, or possess yellowtail flounder unless in compliance with the provisions of the trip landings and/or maximum

possession limits specified in § 648.86(h).

(c) \* \* \*

(7) Possess or land per trip more than the possession or landing limits specified under § 648.86(a), (b), (c), (d), (e), and (h), and under § 648.82(b)(3), if the vessel has been issued a limited access multispecies permit.

(8) Fail to comply with the restrictions on fishing and gear specified in § 648.80(a)(3)(v), (a)(4)(v), (b)(2)(v), and (c)(2)(iv) if the vessel has been issued a limited access multispecies permit and fishes with hook-gear in areas specified under § 648.80(a), (b), and (c).

\* \* \* \* \*

(13) If the vessel has been issued a Day gillnet category designation, fail to remove gillnet gear from the water as described in § 648.82(g) and § 648.82(k)(1)(iv) and (5).

(14) Fail to comply with the tagging requirements for a day gillnet vessel as described in § 648.82(k)(1)(ii), or fail to produce or, cause to be produced, gillnet tags when requested by an authorized officer.

(15) Produce, or cause to be produced, gillnet tags under § 648.82(k)(1) or (2), without the written confirmation from the Regional Administrator described in § 648.82(k)(1)(ii) or (2)(ii).

\* \* \* \* \*

(20) [Reserved]

\* \* \* \* \*

(23) Fail to enter port and call-out of the DAS program no later than 14 DAS after starting a multispecies DAS trip (i.e., the time a vessel leaves port or when the vessel received a DAS authorization number, whichever comes first), as specified in § 648.10(f)(3), unless otherwise specified in § 648.86(b)(1)(ii) or (2)(ii).

\* \* \* \* \*

(26) Enter port, while on a multispecies DAS trip, in possession of more than the allowable limit of cod specified in § 648.86(b)(2)(ii). Under no circumstances may such trip exceed 14 days in length.

\* \* \* \* \*

(29) Enter, be on a fishing vessel in, or fail to remove gear from, the areas described in § 648.81(g)(1) through (i)(1), during the time periods specified, except as provided in § 648.81(d), (g)(2), (h)(2) and (i)(2).

\* \* \* \* \*

(31) If the vessel has been issued a Charter/Party permit or is fishing under charter/party regulations, fail to comply with the requirements specified in § 648.81(g)(2)(iii) when fishing in the areas described in § 648.81(g)(1) through

(i)(1) during the time periods specified in those sections.

(32) If the vessel has been issued a limited access Trip gillnet category designation, fail to comply with the restrictions and requirements specified in § 648.82(k)(2).

(33) Fail to remain in port for the appropriate time specified in § 648.86(b)(2)(ii)(A), except for transiting purposes, provided the vessel complies with § 648.86(b)(3).

(z) \* \* \*

(2) \* \* \*

(i) Fish with, use or have available for immediate use within the areas described in §§ 648.80(a), (b), and (c), nets of mesh size smaller than 3-in (7.62-cm), unless otherwise exempted pursuant to § 648.80(a)(8).

\* \* \* \* \*

6. In § 648.80, paragraphs (a), (b), (c)(1), (c)(2), (d)(2), (e)(2), (h)(1), and (i)(8) are revised, and paragraphs (c)(2)(iv) and (c)(5) are added to read as follows:

**§ 648.80 Multispecies regulated mesh areas and restrictions on gear and methods of fishing.**

\* \* \* \* \*

(a) *Gulf of Maine (GOM) and Georges Bank (GB) Regulated Mesh Areas—(1) GOM Regulated Mesh Area.* The GOM Regulated Mesh Area (copies of a map depicting the area are available from the Regional Administrator upon request) is that area:

(i) Bounded on the east by the U.S.-Canada maritime boundary defined by straight lines connecting the following points in the order stated:

Point	N. Lat.	W. Long.
G1 .....	( <sup>1</sup> )	( <sup>1</sup> )
G2 .....	43°58'	67°22'
G3 .....	42°53.1'	67°44.4'
G4 .....	42°31'	67°28.1'
CI13 .....	42°22'	67°20' <sup>2</sup>

<sup>1</sup> The intersection of the shoreline and the U.S.-Canada Maritime Boundary.

<sup>2</sup> The U.S.-Canada Maritime Boundary.

(ii) Bounded on the south by straight lines connecting the following points in the order stated:

Point	N. Lat.	W. Long.
CI13 .....	42°22'	67°20' <sup>1</sup>
G6 .....	42°20'	67°20'
G7 .....	42°20'	69°30'
G8 .....	42°00'	69°30'
G9 .....	42°00'	( <sup>2</sup> )

<sup>1</sup> The U.S.-Canada Maritime Boundary.

<sup>2</sup> The intersection of the Cape Cod, MA, coastline and 42°00' N. lat.

(2) *GB Regulated Mesh Area.* The GB Regulated Mesh Area (copies of a map

depicting the area are available from the Regional Administrator upon request) is that area:

(i) Bounded on the north by the southern boundary of the GOM Regulated Mesh Area as defined in paragraph (a)(1)(ii) of this section; and

(ii) Bounded on the east by straight lines connecting the following points in the order stated:

Point	N. Lat.	W. Long.	Approximate loran C bearings
CI13 .....	42°22'	67°20'	( <sup>1</sup> )
SNE1 .....	40°24'	65°43'	( <sup>2</sup> )

<sup>1</sup> The U.S.-Canada Maritime Boundary.

<sup>2</sup> The U.S.-Canada Maritime Boundary as it intersects with the EEZ.

(iii) Bounded on the west by straight lines connecting the following points in the order stated:

Point	N. Lat.	W. Long.
G12 .....	( <sup>1</sup> )	70°00'
G11 .....	40°50'	70°00'
NL1 .....	40°50'	69°40'
NL2 .....	40°18.7'	69°40'
NL3 .....	40°22.7'	69°00'
	( <sup>2</sup> )	69°00'

<sup>1</sup> South facing shoreline of Cape Cod.

<sup>2</sup> Southward to its intersection with the EEZ.

(3) *GOM Regulated Mesh Area minimum mesh size and gear restrictions—(i) Vessels using trawls.* Except as provided in paragraphs (a)(3)(i) and (vi) of this section, and unless otherwise restricted under paragraph (a)(3)(iii) of this section, the minimum mesh size for any trawl net, except midwater trawl, on a vessel or used by a vessel fishing under a DAS in the NE multispecies DAS program in the GOM Regulated Mesh Area is 6-inch (15.2-cm) diamond mesh or 6.5-inch (16.5-cm) square mesh, applied throughout the body and extension of the net, or any combination thereof, and 6.5-inch (16.5-cm) diamond mesh or square mesh applied to the codend of the net as defined in paragraphs (a)(3)(i)(A) and (B) of this section, provided the vessel complies with the requirements of paragraph (a)(3)(vii) of this section. This restriction does not apply to nets or pieces of nets smaller than 3 ft (0.9 m) × 3 ft (0.9 m), (9 sq ft (0.81 sq m)), or to vessels that have not been issued a NE multispecies permit and that are fishing exclusively in state waters.

(A) For vessels greater than 45 ft (13.7 m) in length overall, a diamond mesh codend is defined as the first 50 meshes counting from the terminus of the net, and a square mesh codend is defined as

the first 100 bars counting from the terminus of the net.

(B) For vessels 45 ft (13.7 m) or less in length overall, a diamond mesh codend is defined as the first 25 meshes counting from the terminus of the net, and a square mesh codend is defined as the first 50 bars counting from the terminus of the net.

(ii) *Vessels using Scottish seine, midwater trawl, and purse seine.* Except as provided in paragraphs (a)(3)(ii) and (vi) of this section, and unless otherwise restricted under paragraph (a)(3)(iii) of this section, the minimum mesh size for any Scottish seine, midwater trawl, or purse seine, on a vessel or used by a vessel fishing under a DAS in the NE multispecies DAS program in the GOM Regulated Mesh Area is 6-inch (15.2-cm) diamond mesh or 6.5-inch (16.5-cm) square mesh applied throughout the net, or any combination thereof, provided the vessel complies with the requirements of paragraph (a)(3)(vii) of this section. This restriction does not apply to nets or pieces of nets smaller than 3 ft (0.9 m) x 3 ft (0.9 m), (9 sq ft (0.81 sq m)), or to vessels that have not been issued a NE multispecies permit and that are fishing exclusively in state waters.

(iii) *Large-mesh vessels.* As of September 1, 2002, when fishing in the GOM Regulated Mesh Area, the minimum mesh size for any trawl net vessel, or sink gillnet, on a vessel or used by a vessel fishing under a DAS in the Large-mesh DAS program, specified in § 648.82(b)(6) and (7), is 8.5-inch (21.6-cm) diamond or square mesh throughout the entire net. This restriction does not apply to nets or pieces of nets smaller than 3 ft (0.9 m) x 3 ft (0.9 m), (9 sq ft (0.81 sq m)), or to vessels that have not been issued a NE multispecies permit and that are fishing exclusively in state waters.

(iv) *Gillnet vessels—(A) Trip gillnet vessels.* Except as provided in paragraphs (a)(3)(iv) and (vi) of this section, and unless otherwise restricted under paragraph (a)(3)(iii) of this section, for vessels that obtain an annual designation as a Trip gillnet vessel, the minimum mesh size for any sink gillnet when fishing under a DAS in the NE multispecies DAS program in the GOM Regulated Mesh Area is 6.5 inches (16.5 cm) throughout the entire net. This restriction does not apply to nets or pieces of nets smaller than 3 ft (0.9 m) x 3 ft (0.9 m), (9 sq ft (0.81 sq m)), or to vessels that have not been issued a NE multispecies permit and that are fishing exclusively in state waters.

(B) *Day gillnet vessels.* Except as provided in paragraphs (a)(3)(iv) and (vi) of this section, and unless otherwise

restricted under paragraph (a)(3)(iii) of this section, for vessels that obtain an annual designation as a Day gillnet vessel, the minimum mesh size for any roundfish gillnet when fishing under a DAS in the NE multispecies DAS program in the GOM Regulated Mesh Area is 6.5 inches (16.5 cm) throughout the entire net and the minimum mesh size for any flatfish (tie-down) gillnet when fishing under a DAS in the NE multispecies DAS program in the GOM Regulated Mesh Area is 7.0 inches (17.8 cm) throughout the entire net. No roundfish nets may be fished or on board a vessel during the period March through June in the GOM Regulated Mesh Area. This restriction does not apply to nets or pieces of nets smaller than 3 ft (0.9 m) x 3 ft (0.9 m), (9 sq ft (0.81 sq m)), or to vessels that have not been issued a NE multispecies permit and that are fishing exclusively in state waters.

(v) *Hook-gear restrictions.* Vessels fishing with a valid NE multispecies limited access permit and fishing under a NE multispecies DAS, and vessels fishing with a valid NE multispecies limited access Small-vessel permit, in the GOM Regulated Mesh Area, and persons on such vessels, are prohibited from fishing, setting, or hauling back, per day, or possessing on board the vessel, more than 2,000 rigged hooks. All longline gear hooks must be circle hooks, of a minimum size of 12/0. An unbaited hook and gangion that has not been secured to the ground line of the trawl on board a vessel is deemed to be a replacement hook and is not counted toward the 2,000-hook limit. A “snap-on” hook is deemed to be a replacement hook if it is not rigged or baited. The use of de-hookers (“crucifiers”) with less than 6-inch (15.2-cm) spacing between the fairlead rollers is prohibited. Vessels fishing with a valid NE multispecies limited access Hook-gear permit and fishing under a multispecies DAS in the GOM Regulated Mesh Area, and persons on such vessels, are prohibited from possessing gear other than hook gear on board the vessel.

(vi) *Other restrictions and exemptions.* Vessels are prohibited from fishing in the GOM or GB Exemption Area as defined in paragraph (a)(16) of this section, except if fishing with exempted gear (as defined under this part) or under the exemptions specified in paragraphs (a)(5) through (a)(7), (a)(9) through (a)(14), (d), (e), (h), and (i) of this section; or if fishing under a NE multispecies DAS; or if fishing under the small vessel exemption specified in § 648.82(b)(3); or if fishing under the scallop state waters exemptions specified in § 648.54 and paragraph

(a)(11) of this section; or if fishing under a scallop DAS in accordance with paragraph (h) of this section; or if fishing pursuant to a NE multispecies open access Charter/Party or Handgear permit, or if fishing as a charter/party or private recreational vessel in compliance with the regulations specified in § 648.89. Any gear on a vessel, or used by a vessel, in this area must be authorized under one of these exemptions or must be stowed as specified in § 648.23(b).

(vii) *Rockhopper and roller gear restrictions.* For all trawl vessels fishing in the GOM/GB Inshore Restricted Roller Gear Area, the diameter of any part of the trawl footrope, including discs, rollers, or rockhoppers, must not exceed 12 inches (30.48 cm). The GOM/GB Inshore Restricted Roller Gear Area is defined by straight lines connecting the following points in the order stated:

#### INSHORE RESTRICTED ROLLER GEAR AREA

Point	N. Lat.	W. Long.
GM1 .....	42°00'	( <sup>1</sup> )
GM2 .....	42°00'	( <sup>2</sup> )
GM3 .....	42°00'	( <sup>3</sup> )
GM23 .....	42°00'	69°50'
GM24 .....	43°00'	69°50'
GM11 .....	43°00'	70°00'
GM17 .....	43°30'	70°00'
GM18 .....	43°00'	( <sup>4</sup> )

<sup>1</sup> Massachusetts shoreline.

<sup>2</sup> Cape Cod shoreline on Cape Cod Bay.

<sup>3</sup> Cape Cod shoreline on the Atlantic Ocean.

<sup>4</sup> Maine shoreline.

(4) *GB Regulated Mesh Area gear restrictions—(i) Vessels using trawls.* Except as provided in paragraphs (a)(3)(vi) and (a)(4)(i) of this section, and unless otherwise restricted under paragraph (a)(4)(iii) of this section, the minimum mesh size for any trawl net, except midwater trawl, and the minimum mesh size for any trawl net when fishing in that portion of the GB Regulated Mesh Area that lies within the SNE Exemption Area, as described in paragraph (b)(10) of this section, that is not stowed and available for immediate use in accordance with § 648.23(b), on a vessel or used by a vessel fishing under a DAS in the NE multispecies DAS program in the GB Regulated Mesh Area is 6-inch (15.2-cm) diamond mesh or 6.5-inch (16.5-cm) square mesh applied throughout the body and extension of the net, or any combination thereof, and as of August 15, 2002, 6.5-inch (16.5-cm) diamond mesh or square mesh applied to the codend of the net as defined under paragraph 648.80(a)(3)(i) of this section, provided the vessel complies with the

requirements of paragraph (a)(3)(vii) of this section. This restriction does not apply to nets or pieces of nets smaller than 3 ft (0.9 m) × 3 ft (0.9 m), (9 sq ft (0.81 sq m)), or to vessels that have not been issued a NE multispecies permit and that are fishing exclusively in state waters.

(ii) *Vessels using Scottish seine, midwater trawl, and purse seine.* Except as provided in paragraphs (a)(3)(vi) and (a)(4)(ii) of this section, and unless otherwise restricted under paragraph (a)(4)(iii) of this section, the minimum mesh size for any Scottish seine, midwater trawl, or purse seine, and the minimum mesh size for any Scottish seine, midwater trawl, or purse seine, when fishing in that portion of the GB Regulated Mesh Area that lies within the SNE Exemption Area, as described in paragraph (b)(10) of this section, that is not stowed and available for immediate use in accordance with § 648.23(b), on a vessel or used by a vessel fishing under a DAS in the NE multispecies DAS program in the GB Regulated Mesh Area is 6-inch (15.2-cm) diamond mesh or 6.5-inch (16.5-cm) square mesh applied throughout the net, or any combination thereof, provided the vessel complies with the requirements of paragraph (a)(3)(vii) of this section. This restriction does not apply to nets or pieces of nets smaller than 3 ft (0.9 m) × 3 ft (0.9 m), (9 sq ft (0.81 sq m)), or to vessels that have not been issued a NE multispecies permit and that are fishing exclusively in state waters.

(iii) *Large-mesh vessels.* As of September 1, 2002, when fishing in the GB Regulated Mesh Area, the minimum mesh size for any trawl net vessel, or sink gillnet, and the minimum mesh size for any trawl net, or sink gillnet, when fishing in that portion of the GB Regulated Mesh Area that lies within the SNE Exemption Area, as described in paragraph (b)(10) of this section, that is not stowed and available for immediate use in accordance with § 648.23(b), on a vessel or used by a vessel fishing under a DAS in the Large-mesh DAS program, specified in § 648.82(b)(6) and (7), is 8.5-inch (21.6-cm) diamond or square mesh throughout the entire net. This restriction does not apply to nets or pieces of nets smaller than 3 ft (0.9 m) × 3 ft (0.9 m), (9 sq ft (0.81 sq m)), or to vessels that have not been issued a NE multispecies permit and that are fishing exclusively in state waters.

(iv) *Gillnet vessels.* As of August 15, 2002, except as provided in paragraphs (a)(3)(vi) and (a)(4)(iv) of this section, the minimum mesh size for any roundfish or flatfish gillnet, and the

minimum mesh size for any roundfish or flatfish gillnet when fishing in that portion of the GB Regulated Mesh Area that lies within the SNE Exemption Area, as described in paragraph (b)(10) of this section, that is not stowed and available for immediate use in accordance with § 648.23(b), when fishing under a DAS in the NE multispecies DAS program in the GB Regulated Mesh Area is 6.5 inches (16.5 cm) throughout the entire net. This restriction does not apply to nets or pieces of nets smaller than 3 ft (0.9 m) × 3 ft (0.9 m), (9 sq ft (0.81 sq m)), or to vessels that have not been issued a NE multispecies permit and that are fishing exclusively in state waters.

(v) *Hook-gear restrictions.* Vessels fishing with a valid NE multispecies limited access permit and fishing under a NE multispecies DAS, and vessels fishing with a valid NE multispecies limited access Small-vessel permit, in the GB Regulated Mesh Area, and persons on such vessels, are prohibited from possessing gear other than hook gear on board the vessel and prohibited from fishing, setting, or hauling back, per day, or possessing on board the vessel, more than 3,600 rigged hooks. All longline gear hooks must be circle hooks, of a minimum size of 12/0. An unbaited hook and gangion that has not been secured to the ground line of the trawl on board a vessel is deemed to be a replacement hook and is not counted toward the 3,600-hook limit. A “snap-on” hook is deemed to be a replacement hook if it is not rigged or baited. The use of de-hookers (“crucifiers”) with less than 6-inch (15.2-cm) spacing between the fairlead rollers is prohibited. Vessels fishing with a valid NE multispecies limited access Hook-gear permit and fishing under a multispecies DAS in the GB Regulated Mesh Area, and persons on such vessels, are prohibited from possessing gear other than hook gear on board the vessel.

(5) *Small Mesh Northern Shrimp Fishery Exemption Area.* Vessels subject to the minimum mesh size restrictions specified in this paragraph (a) may fish for, harvest, possess, or land northern shrimp in the Small Mesh Northern Shrimp Fishery Exemption Area with nets with a mesh size smaller than the minimum size specified, if the vessel complies with the requirements of paragraphs (a)(5)(i) through (iii) of this section. The Small Mesh Northern Shrimp Fishery Exemption Area is defined by straight lines connecting the following points in the order stated (copies of a map depicting the area are available from the Regional Administrator upon request):

#### SMALL MESH NORTHERN SHRIMP FISHERY EXEMPTION AREA

Point	N. Lat.	W. Long.
SM1 .....	41°35'	70°00'
SM2 .....	41°35'	69°40'
SM3 .....	42°49.5'	69°40'
SM4 .....	43°12'	69°00'
SM5 .....	43°41'	68°00'
G2 .....	43°58'	67°22'
G1 .....	( <sup>1</sup> )	( <sup>1</sup> )

<sup>1</sup> Northward along the irregular U.S.-Canada maritime boundary to the shoreline.

(i) *Restrictions on fishing for, possessing, or landing fish other than shrimp.* (A) Through April 30, 2003, an owner or operator of a vessel fishing in the northern shrimp fishery under the exemption described in this paragraph (a)(5) may not fish for, possess on board, or land any species of fish other than shrimp, except for the following, with the restrictions noted, as allowable incidental species: Longhorn sculpin; combined silver hake and offshore hake—up to an amount equal to the total weight of shrimp possessed on board or landed, not to exceed 3,500 lb (1,588 kg); and American lobster—up to 10 percent, by weight, of all other species on board or 200 lobsters, whichever is less, unless otherwise restricted by landing limits specified in § 697.17 of this chapter. Silver hake and offshore hake 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.

(B) Beginning May 1, 2003, an owner or operator of a vessel fishing for northern shrimp may not fish for, possess on board, or land any species of fish other than shrimp, except for the following, with the restrictions noted, as allowable incidental species: Longhorn sculpin; combined silver hake and offshore hake—up to 100 lb (45.4 kg); and American lobster—up to 10 percent, by weight, of all other species on board or 200 lobsters, whichever is less, unless otherwise restricted by landing limits specified in § 697.17 of this chapter.

(ii) *Requirement to use a finfish excluder device (FED).* A vessel must have a rigid or semi-rigid grate consisting of parallel bars of not more than 1-inch (2.54-cm) spacing that excludes all fish and other objects, except those that are small enough to pass between its bars into the codend of the trawl, secured in the trawl, forward of the codend, in such a manner that it precludes the passage of fish or other objects into the codend without the fish or objects having to first pass between the bars of the grate, in any net with mesh smaller than the minimum size

specified in paragraphs (a)(3) and (4) of this section. The net must have an outlet or hole to allow fish or other objects that are too large to pass between the bars of the grate to exit the net. The aftermost edge of this outlet or hole must be at least as wide as the grate at the point of attachment. The outlet or hole must extend forward from the grate toward the mouth of the net. A funnel of net material is allowed in the lengthening piece of the net forward of the grate to direct catch towards the grate. (Copies of a schematic example of a properly configured and installed FED are available from the Regional Administrator upon request.)

(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.

(6) *Cultivator Shoal Whiting Fishery Exemption Area.* Vessels subject to the minimum mesh size restrictions specified in paragraphs (a)(3) and (4) of this section may fish with, use, or possess nets in the Cultivator Shoal Whiting Fishery Exemption Area with a mesh size smaller than the minimum size specified, if the vessel complies with the requirements specified in paragraph (a)(6)(i) of this section. The Cultivator Shoal Whiting Fishery Exemption Area (copies of a map depicting the area are available from the Regional Administrator upon request) is defined by straight lines connecting the following points in the order stated:

CULTIVATOR SHOAL WHITING FISHERY  
EXEMPTION AREA

Point	N. Lat.	W. Long.
C1 .....	42°10'	68°10'
C2 .....	41°30'	68°41'
C14 .....	41°30'	68°30'
C3 .....	41°12.8'	68°30'
C4 .....	41°05'	68°20'
C5 .....	41°55'	67°40'
C1 .....	42°10'	68°10'

(i) *Requirements.* (A) A vessel fishing in the Cultivator Shoal Whiting Fishery Exemption Area under this exemption must have on board a valid letter of authorization issued by the Regional Administrator.

(B) Through April 30, 2003, an owner or operator of a vessel fishing in this area may not fish for, possess on board, or land any species of fish other than whiting and offshore hake combined—up to a maximum of 30,000 lb (13,608 kg), except for the following, with the restrictions noted, as allowable incidental species: Herring; longhorn sculpin; squid; butterfish; Atlantic

mackerel; dogfish, and red hake—up to 10 percent each, by weight, of all other species on board; monkfish and monkfish parts—up to 10 percent, by weight, of all other species on board or up to 50 lb (23 kg) tail-weight/166 lb (75 kg) whole-weight of monkfish per trip, as specified in § 648.94(c)(4), whichever is less; and American lobster—up to 10 percent, by weight, of all other species on board or 200 lobsters, whichever is less, unless otherwise restricted by landing limits specified in § 697.17 of this chapter.

(C) Beginning May 1, 2003, an owner or operator of a vessel fishing in this area is subject to the mesh size restrictions specified in paragraph (a)(6)(i)(D) of this section and may not fish for, possess on board, or land any species of fish other than whiting and offshore hake combined—up to a maximum of 10,000 lb (4,536 kg), except for the allowable incidental species listed in paragraph (a)(6)(i)(B) of this section.

(D) Counting from the terminus of the net, all nets must have a minimum mesh size of 3-inch (7.6-cm) square or diamond mesh applied to the first 100 meshes (200 bars in the case of square mesh) for vessels greater than 60 ft (18.28 m) in length applied to and the first 50 meshes (100 bars in the case of square mesh) for vessels less than or equal to 60 ft (18.3 m) in length.

(E) Fishing is confined to a season of June 15 through September 30, unless otherwise specified by notification in the **Federal Register**.

(F) When a vessel is transiting through the GOM or GB Regulated Mesh Areas specified under paragraphs (a)(1) and (2) of this section, any nets with a mesh size smaller than the minimum mesh specified in paragraphs (a)(3) or (4) of this section must be stowed in accordance with one of the methods specified in § 648.23(b), unless the vessel is fishing for small-mesh multispecies under another exempted fishery specified in this paragraph (a).

(G) A vessel fishing in the Cultivator Shoal Whiting Fishery Exemption Area may fish for small-mesh multispecies in exempted fisheries outside of the Cultivator Shoal Whiting Fishery Exemption Area, provided that the vessel complies with the requirements specified in this paragraph (a)(6)(i) for the entire trip.

(ii) *Sea sampling.* The Regional Administrator shall conduct periodic sea sampling to determine if there is a need to change the area or season designation, and to evaluate the bycatch of regulated species, especially haddock.

(iii) *Annual review.* The NEFMC shall conduct an annual review of data to determine if there are any changes in area or season designation necessary, and to make appropriate recommendations to the Regional Administrator following the procedures specified in § 648.90.

(7) *Transiting.* (i) Vessels fishing in the Small Mesh Northern Shrimp Fishery or the Small Mesh Area 1/Small Mesh Area 2 fishery, as specified in paragraphs (a)(5) and (9) of this section, may transit through the Small Mesh Northern Shrimp Fishery Exemption Area as specified in paragraph (a)(5) of this section with nets of mesh size smaller than the minimum mesh size specified in paragraphs (a)(3) or (4) of this section, provided that the nets are stowed and not available for immediate use in accordance with one of the methods specified in § 648.23(b).

(ii) Vessels subject to the minimum mesh size restrictions specified in paragraphs (a)(3) or (4) of this section may transit through the Small Mesh Northern Shrimp Fishery Exemption Area defined in paragraph (a)(5) of this section with nets on board with a mesh size smaller than the minimum size specified, provided that the nets are stowed in accordance with one of the methods specified in § 648.23(b), and provided the vessel has no fish on board.

(iii) Vessels subject to the minimum mesh size restrictions specified in paragraphs (a)(3) or (4) of this section may transit through the GOM and GB Regulated Mesh Areas defined in paragraphs (a)(1) and (2) of this section with nets on board with a mesh size smaller than the minimum mesh size specified and with small mesh exempted species on board, provided that the following conditions are met:

(A) All nets with a mesh size smaller than the minimum mesh size specified in paragraphs (a)(3) or (4) of this section are stowed in accordance with one of the methods specified in § 648.23(b).

(B) A letter of authorization issued by the Regional Administrator is on board.

(C) Vessels do not fish for, possess on board, or land any fish, except when fishing in the areas specified in paragraphs (a)(6), (a)(10), (a)(15), (b), and (c) of this section. Vessels may retain exempted small-mesh species as provided in paragraphs (a)(6)(i), (a)(10)(i), (a)(15)(i), (b)(3), and (c)(3) of this section.

(8) *Addition or deletion of exemptions—(i) Species—(A) Regulated multispecies.* An exemption may be added in an existing fishery for which there are sufficient data or information to ascertain the amount of regulated

species bycatch, if the Regional Administrator, after consultation with the NEFMC, determines that the percentage of regulated species caught as bycatch is, or can be reduced to, less than 5 percent, by weight, of total catch and that such exemption will not jeopardize fishing mortality objectives. In determining whether exempting a fishery may jeopardize meeting fishing mortality objectives, the Regional Administrator may take into consideration various factors including, but not limited to, juvenile mortality. A fishery can be defined, restricted, or allowed by area, gear, season, or other means determined to be appropriate to reduce bycatch of regulated species. An existing exemption may be deleted or modified if the Regional Administrator determines that the catch of regulated species is equal to or greater than 5 percent, by weight, of total catch, or that continuing the exemption may jeopardize meeting fishing mortality objectives. Notification of additions, deletions or modifications will be made through issuance of a rule in the **Federal Register**.

(B) *Small-mesh multispecies.* Beginning May 1, 2003, an exemption may be added in an existing fishery for which there are sufficient data or information to ascertain the amount of small-mesh multispecies bycatch, if the Regional Administrator, after consultation with the NEFMC, determines that the percentage of small-mesh multispecies caught as bycatch is, or can be reduced to, less than 10 percent, by weight, of total catch and that such exemption will not jeopardize fishing mortality objectives. In determining whether exempting a fishery may jeopardize meeting fishing mortality objectives, the Regional Administrator may take into consideration various factors including, but not limited to, juvenile mortality. A fishery can be defined, restricted, or allowed by area, gear, season, or other means determined to be appropriate to reduce bycatch of small-mesh multispecies. An existing exemption may be deleted or modified if the Regional Administrator determines that the catch of regulated species is equal to or greater than 10 percent, by weight, of total catch, or that continuing the exemption may jeopardize meeting fishing mortality objectives. Notification of additions, deletions, or modifications are made through issuance of a rule in the **Federal Register**.

(ii) The NEFMC may recommend to the Regional Administrator, through the framework procedure specified in § 648.90(b), additions or deletions to exemptions for fisheries, either existing

or proposed, for which there may be insufficient data or information for the Regional Administrator to determine, without public comment, percentage catch of regulated species or small-mesh multispecies.

(iii) The Regional Administrator may, using the process described in either paragraph (a)(8)(i) or (ii) of this section, authorize an exemption for a white hake fishery by vessels using regulated mesh or hook gear. Determination of the percentage of regulated species caught in such fishery shall not include white hake.

(iv) Bycatch in exempted fisheries authorized under this paragraph (a)(8) are subject, at a minimum, to the following restrictions:

(A) With the exception of fisheries authorized under paragraph (a)(8)(iii) of this section, a prohibition on the possession of regulated species.

(B) A limit on the possession of monkfish or monkfish parts of 10 percent, by weight, of all other species on board or as specified by § 648.94(c)(3), (c)(4), (c)(5) or (c)(6), as applicable, whichever is less.

(C) A limit on the possession of lobsters of 10 percent, by weight, of all other species on board or 200 lobsters, whichever is less.

(D) A limit on the possession of skate or skate parts in the SNE Exemption Area described in paragraph (b)(10) of this section of 10 percent, by weight, of all other species on board.

(9) *Small Mesh Area 1/Small Mesh Area 2—(i) Description.* (A) Unless otherwise prohibited in § 648.81, through April 30, 2003, a vessel subject to the minimum mesh size restrictions specified in paragraphs (a)(3) or (4) of this section may fish with or possess nets with a mesh size smaller than the minimum size, provided the vessel complies with the requirements of paragraphs (a)(5)(ii) or (a)(9)(ii) of this section, and § 648.86(d), from July 15 through November 15, when fishing in Small Mesh Area 1, and from January 1 through June 30, when fishing in Small Mesh Area 2. An owner or operator of any vessel may not fish for, possess on board, or land any species of fish other than: Silver hake and offshore hake—up to the amounts specified in § 648.86(d); butterfish; dogfish; herring; Atlantic mackerel; ocean pout; scup; squid; and red hake; except for the following allowable incidental species (bycatch as the term is used elsewhere in this part) with the restrictions noted: Longhorn sculpin; monkfish and monkfish parts—up to 10 percent, by weight, of all other species on board or up to 50 lb (23 kg) tail-weight/166 lb (75 kg) whole-weight of monkfish per trip, as specified in

§ 648.94(c)(4), whichever is less; and American lobster—up to 10 percent, by weight, of all other species on board or 200 lobsters, whichever is less, unless otherwise restricted by landing limits specified in § 697.17 of this chapter.

(B) Unless otherwise prohibited in § 648.81, beginning May 1, 2003, in addition to the requirements specified in paragraph (a)(9)(i)(A) of this section, nets may not have a mesh size of less than 3-inch (7.6-cm) square or diamond mesh counting the first 100 meshes (200 bars in the case of square mesh) from the terminus of the net for vessels greater than 60 ft (18.3 m) in length and counting the first 50 meshes (100 bars in the case of square mesh) from the terminus of the net for vessels less than or equal to 60 ft (18.3 m) in length. An owner or operator of any vessel may not fish for, possess on board, or land any species of fish other than: Silver hake and offshore hake—up to 10,000 lb (4,536 kg); butterfish; dogfish; herring; Atlantic mackerel; ocean pout; scup; squid; and red hake; except for the following allowable incidental species (bycatch, as the term is used elsewhere in this part) with the restrictions noted: Longhorn sculpin; monkfish and monkfish parts—up to 10 percent, by weight, of all other species on board or up to 50 lb (23 kg) tail-weight/166 lb (75 kg) whole-weight of monkfish per trip, as specified in § 648.94(c)(4), whichever is less; and American lobster—up to 10 percent, by weight, of all other species on board or 200 lobsters, whichever is less, unless otherwise restricted by landing limits specified in § 697.17 of this chapter.

(C) Small-mesh areas 1 and 2 are defined by straight lines connecting the following points in the order stated (copies of a chart depicting these areas are available from the Regional Administrator upon request (see Table 1 to § 600.502 of this chapter)):

Point	N. Lat.	W. Long.
<b>Small Mesh Area I</b>		
SM1 .....	43°03'	70°27'
SM2 .....	42°57'	70°22'
SM3 .....	42°47'	70°32'
SM4 .....	42°45'	70°29'
SM5 .....	42°43'	70°32'
SM6 .....	42°44'	70°39'
SM7 .....	42°49'	70°43'
SM8 .....	42°50'	70°41'
SM9 .....	42°53'	70°43'
SM10 .....	42°55'	70°40'
SM11 .....	42°59'	70°32'
SM1 .....	43°03'	70°27'
<b>Small Mesh Area II</b>		
SM13 .....	43°05.6'	69°55.0'
SM14 .....	43°10.1'	69°43.3'

Point	N. Lat.	W. Long.
SM15 .....	42°49.5'	69°40.0'
SM16 .....	42°41.5'	69°40.0'
SM17 .....	42°36.6'	69°55.0'
SM13 .....	43°05.6'	69°55.0'

(ii) *Raised footrope trawl.* Vessels fishing with trawl gear must configure it in such a way that, when towed, the gear is not in contact with the ocean bottom. Vessels are presumed to be fishing in such a manner if their trawl gear is designed as specified in paragraphs (j)(9)(ii)(A) through (D) of this section and is towed so that it does not come into contact with the ocean bottom.

(A) Eight-inch (20.3-cm) diameter floats must be attached to the entire length of the headrope with a maximum spacing of 4 ft (122.0 cm) between floats.

(B) The ground gear must all be bare wire not larger than 1/2-inch (1.2-cm) for the top leg, not larger than 5/8-inch (1.6-cm) for the bottom leg, and not larger than 3/4-inch (1.9-cm) for the ground cables. The top and bottom legs must be equal in length, with no extensions. The total length of ground cables and legs must not be greater than 40 fathoms (73 m) from the doors to wingends.

(C) The footrope must be longer than the length of the headrope, but not more than 20 ft (6.1 m) longer than the length of the headrope. The footrope must be rigged so that it does not contact the ocean bottom while fishing.

(D) The raised footrope trawl may be used with or without a chain sweep. If used without a chain sweep, the drop chains must be a maximum of 3/8-inch (0.95-cm) diameter bare chain and must be hung from the center of the footrope and each corner (the quarter, or the junction of the bottom wing to the belly at the footrope). Drop chains must be hung at intervals of 8 ft (2.4 m) along the footrope from the corners to the wing ends. If used with a chain sweep, the sweep must be rigged so it is behind and below the footrope, and the footrope is off the bottom. This is accomplished by having the sweep longer than the footrope and having long drop chains attaching the sweep to the footrope at regular intervals. The forward end of the sweep and footrope must be connected to the bottom leg at the same point. This attachment, in conjunction with the headrope flotation, keeps the footrope off the bottom. The sweep and its rigging, including drop chains, must be made entirely of bare chain with a maximum diameter of 5/16 inches (0.8 cm). No wrapping or cookies are allowed on the drop chains or sweep. The total length of the sweep must be

at least 7 ft (2.1 m) longer than the total length of the footrope, or 3.5 ft (1.1 m) longer on each side. Drop chains must connect the footrope to the sweep chain, and the length of each drop chain must be at least 42 inches (106.7 cm). One drop chain must be hung from the center of the footrope to the center of the sweep, and one drop chain must be hung from each corner. The attachment points of each drop chain on the sweep and the footrope must be the same distance from the center drop chain attachments. Drop chains must be hung at intervals of 8 ft (2.4 m) from the corners toward the wing ends. The distance of the drop chain that is nearest the wing end to the end of the footrope may differ from net to net. However, the sweep must be at least 3.5 ft (1.1 m) longer than the footrope between the drop chain closest to the wing ends and the end of the sweep that attaches to the wing end.

(10) *Nantucket Shoals dogfish fishery exemption area.* Vessels subject to the minimum mesh size restrictions specified in paragraphs (a)(3) or (4) of this section may fish with, use, or possess nets of mesh smaller than the minimum size specified in the Nantucket Shoals Dogfish Fishery Exemption Area, if the vessel complies with the requirements specified in paragraph (a)(10)(i) of this section. The Nantucket Shoals Dogfish Fishery Exemption Area (copies of a map depicting this area are available from the Regional Administrator upon request) is defined by straight lines connecting the following points in the order stated:

NANTUCKET SHOALS DOGFISH EXEMPTION AREA

Point	N. Lat.	W. Long.
NS1 .....	41°45'	70°00'
NS2 .....	41°45'	69°20'
NS3 .....	41°30'	69°20'
C11 .....	41°30'	69°23'
NS5 .....	41°26.5'	69°20'
NS6 .....	40°50'	69°20'
NS7 .....	40°50'	70°00'
NS1 .....	41°45'	70°00'

(i) *Requirements.* (A) A vessel fishing in the Nantucket Shoals Dogfish Fishery Exemption Area under the exemption must have on board a letter of authorization issued by the Regional Administrator and may not fish for, possess on board, or land any species of fish other than dogfish, except as provided under paragraph (a)(10)(i)(D) of this section.

(B) Fishing is confined to June 1 through October 15.

(C) When transiting the GOM or GB Regulated Mesh Areas, specified under paragraphs (a)(1) and (2) of this section, any nets with a mesh size smaller than the minimum mesh size specified in paragraph (a)(3) and (4) of this section must be stowed and unavailable for immediate use in accordance with § 648.23(b).

(D) *Incidental species provisions.* (1) Through April 30, 2003, the following species may be retained, with the restrictions noted, as allowable incidental species in the Nantucket Shoals Dogfish Fishery Exemption Area: Longhorn sculpin; silver hake—up to 200 lb (90.7 kg); monkfish and monkfish parts—up to 10 percent, by weight, of all other species on board or up to 50 lb (23 kg) tail-weight/166 lb (75 kg) whole-weight of monkfish per trip, as specified in § 648.94(c)(4), whichever is less; American lobster—up to 10 percent, by weight, of all other species on board or 200 lobsters, whichever is less, unless otherwise restricted by landing limits specified in § 697.17 of this chapter; and skate or skate parts—up to 10 percent, by weight, of all other species on board.

(2) Beginning May 1, 2003, all nets must comply with a minimum mesh size of 3-inch (7.6-cm) square or diamond mesh, counting the first 100 meshes (200 bars in the case of square mesh) from the terminus of the net for vessels greater than 60 ft (18.3 m) in length and counting the first 50 meshes (100 bars in the case of square mesh) from the terminus of the net for vessels less than or equal to 60 ft (18.3 m) in length. Vessels may retain the allowable incidental species listed in paragraph (j)(10)(i)(D)(1) of this section.

(E) A vessel fishing in the Nantucket Shoals Dogfish Fishery Exemption Area under the exemption must comply with any additional gear restrictions specified in the letter of authorization issued by the Regional Administrator.

(ii) *Sea sampling.* The Regional Administrator may conduct periodic sea sampling to determine if there is a need to change the area or season designation, and to evaluate the bycatch of regulated species.

(11) *Scallop Dredge Fishery Exemption within the GOM Small Mesh Northern Shrimp Fishery Exemption Area.* Unless otherwise prohibited in §§ 648.81, vessels with a limited access scallop permit that have declared out of the DAS program as specified in § 648.10, or that have used up their DAS allocations, and vessels issued a general scallop permit, may fish in the GOM Small Mesh Northern Shrimp Fishery Exemption Area when not under a NE multispecies DAS, providing the vessel

complies with the requirements specified in paragraph (a)(11)(i) of this section. The GOM Scallop Dredge Fishery Exemption Area is the same as the area defined in paragraph (a)(5) of this section and designated as the Small Mesh Northern Shrimp Fishery Exemption Area.

(i) *Requirements.* (A) A vessel fishing in the GOM Scallop Dredge Fishery Exemption Area specified in paragraph (a)(11) of this section may not fish for, possess on board, or land any species of fish other than Atlantic sea scallops.

(B) The combined dredge width in use by or in possession on board vessels fishing in the GOM Scallop Dredge Fishery Exemption Area shall not exceed 10.5 ft (3.2 m), measured at the widest point in the bail of the dredge.

(C) The exemption does not apply to the Cashes Ledge Closure Area or the Western GOM Area Closure specified in § 648.81(h) and (i).

(ii) [Reserved]

(12) *Nantucket Shoals Mussel and Sea Urchin Dredge Exemption Area.* A vessel may fish with a dredge in the Nantucket Shoals Mussel and Sea Urchin Dredge Exemption Area, provided that any dredge on board the vessel does not exceed 8 ft (2.4 m), measured at the widest point in the bail of the dredge, and the vessel does not fish for, harvest, possess, or land any species of fish other than mussels and sea urchins. The area coordinates of the Nantucket Shoals Mussel and Sea Urchin Dredge Exemption Area are the same coordinates as those of the Nantucket Shoals Dogfish Fishery Exemption Area specified under paragraph (a)(10) of this section.

(13) *GOM/GB Monkfish Gillnet Exemption.* Unless otherwise prohibited in § 648.81, a vessel may fish with gillnets in the GOM/GB Dogfish and Monkfish Gillnet Fishery Exemption Area when not under a NE multispecies DAS if the vessel complies with the requirements specified in paragraph (a)(13)(i) of this section. The GOM/GB Dogfish and Monkfish Gillnet Fishery Exemption Area is defined by straight lines connecting the following points in the order stated:

N. Lat.	W. Long.
41°35'	70°00'
42°49.5'	70°00'
42°49.5'	69°40'
43°12'	69°00'
(1) .....	69°00'

<sup>1</sup> Due north to Maine shoreline.

(i) *Requirements.* (A) A vessel fishing under this exemption may not fish for, possess on board, or land any species of fish other than monkfish, or lobsters in

an amount not to exceed 10 percent by weight of the total catch on board, or 200 lobsters, whichever is less.

(B) All gillnets must have a minimum mesh size of 10-inch (25.4-cm) diamond mesh throughout the net.

(C) Fishing is confined to July 1 through September 14.

(ii) [Reserved]

(14) *GOM/GB Dogfish Gillnet Exemption.* Unless otherwise prohibited in § 648.81, a vessel may fish with gillnets in the GOM/GB Dogfish and Monkfish Gillnet Fishery Exemption Area when not under a NE multispecies DAS if the vessel complies with the requirements specified in paragraph (a)(14)(i) of this section. The area coordinates of the GOM/GB Dogfish and Monkfish Gillnet Fishery Exemption Area are specified in paragraph (a)(13) of this section.

(i) *Requirements.* (A) A vessel fishing under this exemption may not fish for, possess on board, or land any species of fish other than dogfish, or lobsters in an amount not to exceed 10 percent by weight of the total catch on board, or 200 lobsters, whichever is less.

(B) All gillnets must have a minimum mesh size of 6.5-inch (16.5-cm) diamond mesh throughout the net.

(C) Fishing is confined to July 1 through August 31.

(ii) [Reserved]

(15) *Raised Footrope Trawl Exempted Whiting Fishery.* Vessels subject to the minimum mesh size restrictions specified in paragraphs (a)(3) or (4) of this section may fish with, use, or possess nets in the Raised Footrope Trawl Whiting Fishery area with a mesh size smaller than the minimum size specified, if the vessel complies with the requirements specified in paragraph (a)(15)(i) of this section. The exemption does not apply to the Cashes Ledge Closure Areas or the Western GOM Area Closure specified in § 648.81(h) and (i). The Raised Footrope Trawl Whiting Fishery area (copies of a map depicting the area are available from the Regional Administrator upon request) is defined by straight lines connecting the following points in the order stated:

RAISED FOOTROPE TRAWL WHITING FISHERY EXEMPTION		
Point	N. Lat.	W. Long.
RF 1 .....	42°01.9'	70°14.7'
RF 2 .....	41°59.45'	70°23.65'
RF 3 .....	42°07.85'	70°30.1'
RF 4 .....	42°15.05'	70°08.8'
RF 5 .....	42°08.35'	70°04.05'
RF 6 .....	42°04.75'	70°16.95'
RF 1 .....	42°01.9'	70°14.7'

(i) *Requirements.* (A) A vessel fishing in the Raised Footrope Trawl Whiting Fishery under this exemption must have on board a valid letter of authorization issued by the Regional Administrator. To obtain a letter of authorization, vessel owners must write to or call during normal business hours the Northeast Region Permit Office and provide the vessel name, owner name, permit number, and the desired period of time that the vessel will be enrolled. Since letters of authorization are effective the day after they are requested, vessel owners should allow appropriate processing and mailing time. To withdraw from a category, vessel owners must write to or call the Northeast Region Permit Office. Withdrawals are effective the day after the date of request. Withdrawals may occur after a minimum of 7 days of enrollment.

(B) Through April 30, 2003, all nets must comply with a minimum mesh size of 2.5-inch (6.4-cm) square or diamond mesh, subject to the restrictions specified in paragraph (a)(15)(i)(D) of this section. An owner or operator of a vessel enrolled in the raised footrope whiting fishery may not fish for, possess on board, or land any species of fish other than whiting and offshore hake subject to the applicable possession limits as specified in § 648.86, except for the following allowable incidental species: Red hake; butterfish; dogfish; herring; mackerel; scup; and squid.

(C) Beginning May 1, 2003, in addition to the requirements specified in paragraph (a)(15)(i)(B) of this section, all nets must comply with a minimum mesh size of 3-inch (7.6-cm) square or diamond mesh, subject to the restrictions as specified in paragraph (a)(15)(i)(D) of this section. An owner or operator of any vessel enrolled in the raised footrope whiting fishery may not fish for, possess on board, or land any species of fish other than: Silver hake and offshore hake—up to 10,000 lb (4,536 kg); red hake; butterfish; dogfish; herring; mackerel; scup; and squid.

(D) All nets must comply with the minimum mesh sizes specified in paragraphs (a)(15)(i)(B) and (C) of this section. Counting from the terminus of the net, the minimum mesh size is applied to the first 100 meshes (200 bars in the case of square mesh) from the terminus of the net for vessels greater than 60 ft (18.3 m) in length and is applied to the first 50 meshes (100 bars in the case of square mesh) from the terminus of the net for vessels less than or equal to 60 ft (18.3 m) in length.

(E) Raised footrope trawl gear is required and must be configured as

specified in paragraphs (a)(9)(ii)(A) through (D) of this section.

(F) Fishing may only occur from September 1 through November 20 of each fishing year.

(G) A vessel enrolled in the Raised Footrope Trawl Whiting Fishery may fish for small-mesh multispecies in exempted fisheries outside of the Raised Footrope Trawl Whiting Fishery exemption area, provided that the vessel complies with the more restrictive gear, possession limit and other requirements specified in the regulations of that exempted fishery for the entire participation period specified on the vessel's letter of authorization. For example, a vessel may fish in both the Raised Footrope Trawl Whiting Fishery and the Cultivator Shoal Whiting

Fishery Exemption Area and would be restricted to a minimum mesh size of 3 inches (7.6 cm), as required in the Cultivator Shoal Whiting Fishery Exemption Area, the use of the raised footrope trawl, and the catch and bycatch restrictions of the Raised Footrope Trawl Whiting Fishery, except for red hake, which is restricted to 10 percent of the total catch under the Cultivator Shoal Whiting Fishery.

(ii) *Sea sampling.* The Regional Administrator shall conduct periodic sea sampling to evaluate the bycatch of regulated species.

(16) *GOM/GB Exemption Area—Area definition.* The GOM/GB Exemption Area (copies of a map depicting this area are available from the Regional Administrator upon request) is that area:

(i) Bounded on the east by the U.S.-Canada maritime boundary, defined by straight lines connecting the following points in the order stated:

GULF OF MAINE/GEORGES BANK EXEMPTION AREA

Point	N. Lat.	W. Long.
G1 .....	(1)	(1)
G2 .....	43°58'	67°22'
G3 .....	42°53.1'	67°44.4'
G4 .....	42°31'	67°28.1'
G5 .....	41°18.6'	66°24.8'

<sup>1</sup> The intersection of the shoreline and the U.S.-Canada Maritime Boundary.

(ii) Bounded on the south by straight lines connecting the following points in the order stated:

Point	N. Lat.	W. Long.	Approximate Ioran C bearings
G6 .....	40°55.5'	66°38'	5930-Y-30750 and 9960-Y-43500.
G7 .....	40°45.5'	68°00'	9960-Y-43500 and 68°00' W. lat.
G8 .....	40°37'	68°00'	9960-Y-43450 and 68°00' W. lat.
G9 .....	40°30'	69°00'	
NL3 .....	40°22.7'	69°00'	
NL2 .....	40°18.7'	69°40'	
NL1 .....	40°50'	69°40'	
G11 .....	40°50'	70°00'	
G12 .....		170°00'	

<sup>1</sup> Northward to its intersection with the shoreline of mainland Massachusetts.

(b) *Southern New England (SNE) Regulated Mesh Area—(1) Area definition.* The SNE Regulated Mesh Area (copies of a map depicting this area are available from the Regional Administrator upon request) is that area:

(i) Bounded on the east by the western boundary of the Georges Bank Regulated Mesh Area described under § 648.80(a)(2)(iii); and

(ii) Bounded on the west by a line beginning at the intersection of 74°00' W. long. and the south facing shoreline of Long Island, NY, and then running southward along the 74°00' W. long. line.

(2) *Gear restrictions—(i) Vessels using trawls.* Except as provided in paragraphs (b)(2)(i) and (vi) of this section, and unless otherwise restricted under paragraph (b)(2)(iii) of this section, the minimum mesh size for any trawl net, not stowed and not available for immediate use in accordance with section § 648.23(b), except midwater trawl, on a vessel or used by a vessel fishing under a DAS in the NE multispecies DAS program in the SNE Regulated Mesh Area is 6-inch (15.2-cm) diamond mesh or 6.5-inch (16.5-cm) square mesh, applied throughout the body and extension of the net, or any combination thereof, and as of August 15, 2002, 6.5-inch (16.5-cm) square

mesh or, as of September 1, 2002, 7-inch (17.8-cm) diamond mesh applied to the codend of the net, as defined under paragraph § 648.80(a)(3)(i). This restriction does not apply to nets or pieces of nets smaller than 3 ft (0.9 m) x 3 ft (0.9 m), (9 sq ft (0.81 sq m)), or to vessels that have not been issued a NE multispecies permit and that are fishing exclusively in state waters.

(ii) *Vessels using Scottish seine, midwater trawl, and purse seine.* Except as provided in paragraphs (b)(2)(ii) and (vi) of this section, the minimum mesh size for any Scottish seine, midwater trawl, or purse seine, not stowed and not available for immediate use in accordance with section § 648.23(b), on a vessel or used by a vessel fishing under a DAS in the NE multispecies DAS program in the SNE Regulated Mesh Area is 6-inch (15.2-cm) diamond mesh or 6.5-inch (16.5-cm) square mesh applied throughout the net, or any combination thereof. This restriction does not apply to nets or pieces of nets smaller than 3 ft (0.9 m) x 3 ft (0.9 m), (9 sq ft (0.81 sq m)), or to vessels that have not been issued a NE multispecies permit and that are fishing exclusively in state waters.

(iii) *Large-mesh vessels.* As of September 1, 2002, when fishing in the SNE Regulated Mesh Area, the

minimum mesh size for any trawl net vessel, or sink gillnet, not stowed and not available for immediate use in accordance with section § 648.23(b) on a vessel or used by a vessel fishing under a DAS in the Large-mesh DAS program, specified in § 648.82(b)(6) and (7), is 8.5-inch (21.6) diamond or square mesh throughout the entire net. This restriction does not apply to nets or pieces of nets smaller than 3 ft (0.9 m) x 3 ft (0.9 m), (9 sq ft (0.81 sq m)), or to vessels that have not been issued a NE multispecies permit and that are fishing exclusively in state waters.

(iv) *Vessels using sink gillnets.* As of August 15, 2002, the minimum mesh size for any sink gillnet, not stowed and not available for immediate use in accordance with section § 648.23(b), when fishing under a DAS in the NE multispecies DAS program in the SNE Regulated Mesh Area is 6.5 inches (16.5 cm) throughout the entire net. This restriction does not apply to nets or pieces of nets smaller than 3 ft (0.9 m) x 3 ft (0.9 m), (9 sq ft (0.81 sq m)), or to vessels that have not been issued a NE multispecies permit and that are fishing exclusively in state waters.

(v) *Hook-gear restrictions.* Vessels fishing with a valid NE multispecies limited access permit and fishing under a NE multispecies DAS, and vessels

fishing with a valid NE multispecies limited access Small-vessel permit, in the SNE Regulated Mesh Area, and persons on such vessels, are prohibited from fishing, setting, or hauling back, per day, or possessing on board the vessel, more than 2,000 rigged hooks. All longline gear hooks must be circle hooks, of a minimum size of 12/0. An unbaited hook and gangion that has not been secured to the ground line of the trawl on board a vessel is deemed to be a replacement hook and is not counted toward the 2,000-hook limit. A "snap-on" hook is deemed to be a replacement hook if it is not rigged or baited. The use of de-hookers ("crucifiers") with less than 6-inch (15.2-cm) spacing between the fairlead rollers is prohibited. Vessels fishing with a valid NE multispecies limited access Hook-gear permit and fishing under a multispecies DAS in the SNE Regulated Mesh Area, and persons on such vessels, are prohibited from possessing gear other than hook gear on board the vessel.

(vi) *Other restrictions and exemptions.* Vessels are prohibited from fishing in the SNE Exemption Area as defined in paragraph (b)(10) of this section, except if fishing with exempted gear (as defined under this part) or under the exemptions specified in paragraphs (b)(3), (b)(5) through (9), (c), (e), (h) and (i) of this section, or if fishing under a NE multispecies DAS, if fishing under the Small Vessel exemption specified in § 648.82(b)(3), or if fishing under a scallop state waters exemption specified in § 648.54, or if fishing under a scallop DAS in accordance with paragraph (h) of this section, or if fishing pursuant to a NE multispecies open access Charter/Party or Handgear permit, or if fishing as a charter/party or private recreational vessel in compliance with the regulations specified in § 648.89. Any gear on a vessel, or used by a vessel, in this area must be authorized under one of these exemptions or must be stowed as specified in § 648.23(b).

(3) *Exemptions—(i) Species exemptions.* (A) Through April 30, 2003, owners and operators of vessels subject to the minimum mesh size restrictions specified in paragraphs (a)(4) and (b)(2) of this section, may fish for, harvest, possess, or land butterfish, dogfish (trawl only), herring, Atlantic mackerel, ocean pout, scup, shrimp, squid, summer flounder, silver hake and offshore hake, and weakfish with nets of a mesh size smaller than the minimum size specified in the GB and SNE Regulated Mesh Areas when fishing in the SNE Exemption Area defined in paragraph (b)(10) of this section, provided such vessels comply with

requirements specified in paragraph (b)(3)(ii) of this section and with the mesh size and possession limit restrictions specified under § 648.86(d).

(B) Beginning May 1, 2003, owners and operators of vessels subject to the minimum mesh size restrictions specified in paragraph (b)(2) of this section may not use nets with mesh size less than 3 inches (7.6 cm), unless exempted pursuant to paragraph (b)(4) of this section, and may fish for, harvest, possess, or land butterfish, dogfish (trawl only), herring, Atlantic mackerel, ocean pout, scup, shrimp, squid, summer flounder, silver hake and offshore hake—up to 10,000 lb (4,536 kg), 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 requirements specified in paragraph (b)(3)(ii) of this section and with the possession limit restrictions specified under § 648.86. Nets may not have a mesh size of less than 3-inch (7.6-cm) square or diamond mesh, counting the first 100 meshes (200 bars in the case of square mesh) from the terminus of the net for vessels greater than 60 ft (18.3 m) in length, and counting the first 50 meshes (100 bars in the case of square mesh) from the terminus of the net for vessels less than or equal to 60 ft (18.3 m) in length.

(ii) *Possession and net stowage requirements.* Vessels may possess regulated species while in possession of nets with mesh smaller than the minimum size specified in paragraph (a)(4) and (b)(2) of this section when fishing in the SNE Exemption Area defined in paragraph (b)(10) of this section, provided that such nets are stowed and are not available for immediate use in accordance with § 648.23(b), and provided that regulated species were not harvested by nets of mesh size smaller than the minimum mesh size specified in paragraphs (a)(4) and (b)(2) of this section. Vessels fishing for the exempted species identified in paragraph (b)(3)(i) of this section may also possess and retain the following species, with the restrictions noted, as incidental take to these exempted fisheries: Conger eels; sea robins; black sea bass; red hake; tautog (blackfish); blowfish; cunner; John Dory; mullet; bluefish; tilefish; longhorn sculpin; fourspot flounder; alewife; hickory shad; American shad; blueback herring; sea raven; Atlantic croaker; spot; swordfish; monkfish and monkfish parts—up to 10 percent, by weight, of all other species on board or up to 50 lb (23 kg) tail-weight/166 lb (75 kg) whole weight of monkfish per trip, as specified in § 648.94(c)(4), whichever is

less; American lobster—up to 10 percent, by weight, of all other species on board or 200 lobsters, whichever is less; and skate and skate parts—up to 10 percent, by weight, of all other species on board.

(4) *Addition or deletion of exemptions.* Same as under paragraph (a)(8) of this section.

(5) *SNE Monkfish and Skate Trawl Exemption Area.* Unless otherwise required by monkfish regulations under this part, a vessel may fish with trawl gear in the SNE Monkfish and Skate Trawl Fishery Exemption Area when not operating under a NE multispecies DAS if the vessel complies with the requirements specified in paragraph (b)(5)(i) of this section and the monkfish regulations, as applicable under this part. The SNE Monkfish and Skate Trawl Fishery Exemption Area is defined as the area bounded on the north by a line extending eastward along 40°10' N. lat., and bounded on the west by the western boundary of the SNE Exemption Area as defined in paragraph (b)(10)(ii) of this section.

(i) *Requirements.* (A) A vessel fishing under this exemption may only fish for, possess on board, or land monkfish, skates, and the incidentally caught species and amounts specified in paragraph (b)(3) of this section.

(B) All trawl nets must have a minimum mesh size of 8-inch (20.3-cm) square or diamond mesh throughout the codend for at least 45 continuous meshes forward of the terminus of the net.

(ii) [Reserved]

(6) *SNE Monkfish and Skate Gillnet Exemption Area.* Unless otherwise required by monkfish regulations under this part, a vessel may fish with gillnet gear in the SNE Monkfish and Skate Gillnet Fishery Exemption Area when not operating under a NE multispecies DAS if the vessel complies with the requirements specified in paragraph (b)(6)(i) of this section and the monkfish regulations, as applicable under § 648.91 through 94. The SNE Monkfish and Skate Gillnet Fishery Exemption Area is defined by a line running from the Massachusetts shoreline at 41°35' N. lat. and 70°00' W. long., south to its intersection with the outer boundary of the EEZ, southwesterly along the outer boundary of the EEZ, and bounded on the west by the western boundary of the SNE Exemption Area as defined in paragraph (b)(10)(ii) of this section.

(i) *Requirements.* (A) A vessel fishing under this exemption may only fish for, possess on board, or land monkfish, skates, and the bycatch species and amounts specified in paragraph (b)(3) of this section.

(B) All gillnets must have a minimum mesh size of 10-inch (25.4-cm) diamond mesh throughout the net.

(C) All nets with a mesh size smaller than the minimum mesh size specified in paragraph (b)(6)(i)(B) of this section must be stowed as specified in § 648.23(b).

(ii) [Reserved]

(7) *SNE Dogfish Gillnet Exemption Area*. Unless otherwise required by monkfish regulations under this part a gillnet vessel may fish in the SNE Dogfish Gillnet Fishery Exemption Area when not operating under a NE multispecies DAS if the vessel complies with the requirements specified in paragraph (b)(7)(i) of this section and the applicable dogfish regulations under sub-part (L). The SNE Dogfish Gillnet Fishery Exemption Area is defined by a line running from the Massachusetts shoreline at 41°35' N. lat. and 70°00' W. long. south to its intersection with the outer boundary of the EEZ, southwesterly along the outer boundary of the EEZ, and bounded on the west by the western boundary of the SNE Exemption Area as defined in paragraph (b)(10)(ii) of this section.

(i) *Requirements*. (A) A vessel fishing under this exemption may only fish for, possess on board, or land dogfish and the bycatch species and amounts specified in paragraph (b)(3) of this section.

(B) All gillnets must have a minimum mesh size of 6-inch (15.2-cm) diamond mesh throughout the net.

(C) Fishing is confined to May 1 through October 31.

(ii) [Reserved]

(8) *SNE Mussel and Sea Urchin Dredge Exemption*. A vessel may fish with a dredge in the SNE Exemption Area, as defined in paragraph (b)(10) of this section, provided that any dredge on board the vessel does not exceed 8 ft (2.4 m) measured at the widest point in the bail of the dredge, and the vessel does not fish for, harvest, possess, or land any species of fish other than mussels and sea urchins.

(9) *SNE Little Tunny Gillnet Exemption Area*. A vessel may fish with gillnet gear in the SNE Little Tunny Gillnet Exemption Area when not operating under a NE multispecies DAS with mesh size smaller than the minimum required in the SNE Regulated Mesh Area, if the vessel complies with the requirements specified in paragraph (b)(9)(i) of this section. The SNE Little Tunny Gillnet Exemption Area is defined 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; and from Race Point, Fishers Island, NY; southeasterly to 41°06.5' N. lat. and 71°50.2' W. long.; east-northeast through Block Island, RI, to 41°15' N. lat. and 71°07' W. long.; then due north to the intersection of the RI-MA shoreline.

(i) *Requirements*. (A) A vessel fishing under this exemption may fish only for, possess on board, or land little tunny and the allowable incidental species and amounts specified in paragraph (b)(3) of this section and, if applicable, paragraph (b)(9)(i)(B) of this section. Vessels fishing under this exemption may not possess regulated species.

(B) A vessel may possess bonito as an allowable incidental species.

(C) The vessel must have a letter of authorization issued by the Regional Administrator on board.

(D) All gillnets must have a minimum mesh size of 5.5-inch (14.0-cm) diamond mesh throughout the net.

(E) All nets with a mesh size smaller than the minimum mesh size specified in paragraph (b)(9)(i)(D) of this section must be stowed in accordance with one of the methods described under § 648.23(b) while fishing under this exemption.

(F) Fishing is confined to September 1 through October 31.

(ii) The Regional Administrator shall conduct periodic sea sampling to evaluate the likelihood of gear interactions with protected resources.

(10) *SNE Exemption Area—Area definition*. The SNE Exemption Area (copies of a map depicting this area are available from the Regional Administrator upon request) is that area:

(i) Bounded on the east by straight lines connecting the following points in the order stated:

SOUTHERN NEW ENGLAND EXEMPTION AREA

Point	N. Lat.	W. Long.
G5 .....	41°18.6'	66°24.8'
G6 .....	40°55.5'	66°38'
G7 .....	40°45.5'	68°00'
G8 .....	40°37'	68°00'
G9 .....	40°30.5'	69°00'
NL3 .....	40°22.7'	69°00'
NL2 .....	40°18.7'	69°40'
NL1 .....	40°50'	69°40'
G11 .....	40°50'	70°00'
G12 .....	.....	170°00'

<sup>1</sup>Northward to its intersection with the shoreline of mainland Massachusetts.

(ii) Bounded on the west 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; and from 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.

(c) \* \* \*

(1) *Area definition*. The Mid-Atlantic Regulated Mesh Area is that area bounded on the east by the western boundary of the SNE Regulated Mesh Area, described under § 648.80(b)(1)(ii).

(2) *Gear restrictions—(i) Vessels using trawls*. Except as provided in paragraphs (c)(2)(iii), the minimum mesh size for any trawl net, not stowed and not available for immediate use in accordance with section § 648.23(b), on a vessel or used 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), applied throughout the body and extension of the net, or any combination thereof, and as of August 15, 2002, 6.5-inch (16.5-cm) diamond or square mesh applied to the codend of the net, as defined under paragraph § 648.80(a)(3)(i). This restriction does not apply to nets or pieces of nets smaller than 3 ft (0.9 m) × 3 ft (0.9 m), (9 sq ft (0.81 sq m)), or to vessels that have not been issued a NE multispecies permit and that are fishing exclusively in state waters.

(ii) *Vessels using Scottish seine, midwater trawl, and purse seine*. Except as provided in paragraph (c)(2)(iii) of this section, the minimum mesh size for any sink gillnet, Scottish seine, midwater trawl, or purse seine, not stowed and not available for immediate use in accordance with section § 648.23(b), on a vessel or used 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 nets or pieces of nets smaller than 3 ft (0.9 m) × 3 ft (0.9 m), (9 sq ft (0.81 sq m)), or to vessels that have not been issued a NE multispecies permit and that are fishing exclusively in state waters.

(iii) *Large-mesh vessels*. As of September 1, 2002, when fishing in the Mid-Atlantic Regulated Mesh Area, the minimum mesh size for any trawl net vessel, or sink gillnet, not stowed and not available for immediate use in accordance with section § 648.23(b), on a vessel or used by a vessel fishing under a DAS in the Large-mesh DAS program, specified in § 648.82(b)(6) and (7), is 7.5-inch (19.0-cm) diamond mesh or 8.0-inch (20.3-cm) square mesh throughout the entire net. This

restriction does not apply to nets or pieces of nets smaller than 3 ft (0.9 m) x 3 ft (0.9 m), (9 sq ft (0.81 sq m)), or to vessels that have not been issued a NE multispecies permit and that are fishing exclusively in state waters.

(iv) *Hook-gear restrictions.* Vessels fishing with a valid NE multispecies limited access permit and fishing under a NE multispecies DAS, and vessels fishing with a valid NE multispecies limited access Small-vessel permit, when fishing in the Mid-Atlantic Regulated Mesh Area, are prohibited from using de-hookers ("crucifiers") with less than 6-inch (15.2-cm) spacing between the fairlead rollers. Vessels fishing with a valid NE multispecies limited access Hook-gear permit and fishing under a NE multispecies DAS in the Mid-Atlantic Regulated Mesh Area, and persons on such vessels, are prohibited from possessing gear other than hook gear on board the vessel and are prohibited from fishing, setting, or hauling back, per day, or possessing on board the vessel, more than 4,500 rigged hooks. An unbaited hook and gangion that has not been secured to the ground line of the trawl on board a vessel is deemed to be a replacement hook and is not counted toward the 4,500-hook limit. A "snap-on" hook is deemed to be a replacement hook if it is not rigged or baited.

\* \* \* \* \*

(5) *Mid-Atlantic Exemption Area.* The Mid-Atlantic Exemption Area is that area that lies west of the SNE Exemption Area defined in paragraph (b)(10) of this section.

(d) \* \* \*

(2) When fishing under this exemption in the GOM/GB Exemption Area as defined in paragraph (a)(16) of this section, and in the area described in § 648.81(c)(1), the vessel has on board a letter of authorization issued by the Regional Administrator, and complies with all restrictions and conditions thereof;

\* \* \* \* \*

(e) \* \* \*

(2) When fishing under this exemption in the GOM/GB Exemption Area as defined in paragraph (a)(16) of this section, the vessel has on board a letter of authorization issued by the Regional Administrator;

\* \* \* \* \*

(h) \* \* \*

(1) Except as provided in paragraph (h)(2) of this section, a scallop vessel that possesses a limited access scallop permit and either a NE multispecies combination vessel permit or a scallop/multispecies possession limit permit, and that is fishing under a scallop DAS

allocated under § 648.53, may possess and land up to 300 lb (136.1 kg) of regulated species per trip, provided that the amount of regulated species on board the vessel does not exceed the trip limits specified in § 648.86, and provided the vessel has at least one standard tote on board, unless otherwise restricted by § 648.86(a)(2).

\* \* \* \* \*

(i) \* \* \*

(8) The vessel does not fish for, possess, or land any species of fish other than winter flounder and the exempted small-mesh species specified under paragraphs (a)(5)(i), (a)(9)(i), (b)(3), and (c)(4) of this section when fishing in the areas specified under paragraphs (a)(5), (a)(9), (b)(10), and (c)(5) of this section, respectively. Vessels fishing under this exemption in New York and Connecticut state waters may also possess and retain skate as incidental take in this fishery.

\* \* \* \* \*

7. In § 648.81, paragraphs (c)(2)(iii)(B), (d), (g)(1), (g)(2)(iii) through (v), (h), (i) and (n) are revised to read as follows:

**§ 648.81 Closed areas.**

\* \* \* \* \*

(c) \* \* \*

(2) \* \* \*

(iii) \* \* \*

(B) With the exception of tuna, fish harvested or possessed by the vessel are not sold or intended for trade, barter or sale, regardless of where the regulated species are caught; and

\* \* \* \* \*

(d) *Transiting.* A vessel may transit Closed Area I, the Nantucket Lightship Closed Area, the GOM Rolling Closure Areas, the Cashes Ledge Closure Area, the Western GOM Area Closure, and the GB Seasonal Area Closure, as defined in paragraphs (a)(1), (c)(1), (g)(1), (h)(1), (i)(1) and (n)(1), respectively, of this section, provided that its gear is stowed in accordance with the provisions of § 648.23(b).

\* \* \* \* \*

(g) *GOM Rolling Closure Areas.* (1) No fishing vessel or person on a fishing vessel may enter, fish in, or be in; and no fishing gear capable of catching NE multispecies, unless otherwise allowed in this part, may be in, or on board a vessel in GOM Rolling Closure Areas I through V, as described in paragraphs (g)(1)(i) through (v) of this section, for the times specified in paragraphs (g)(1)(i) through (v) of this section, except as specified in paragraphs (d) and (g)(2) of this section. A chart depicting these areas is available from the Regional Administrator upon request.

(i) *Rolling Closure Area I.* From March 1 through March 31, the restrictions specified in paragraph (g)(1) of this section apply to Rolling Closure Area I, which is the area bounded by straight lines connecting the following points in the order stated:

**ROLLING CLOSURE AREA I**

[March 1–March 31]

Point	N. Lat.	W. Long.
GM3 .....	42°00'	(1)
GM5 .....	42°00'	68°30'
GM6 .....	42°30'	68°30'
GM23 .....	42°30'	70°00'

<sup>1</sup> Cape Cod shoreline on the Atlantic Ocean.

(ii) *Rolling Closure Area II.* From April 1 through April 30, the restrictions specified in paragraph (g)(1) of this section apply to Rolling Closure Area II, which is the area bounded by straight lines connecting the following points in the order stated:

**ROLLING CLOSURE AREA II**

[April 1–April 30]

Point	N. Lat.	W. Long.
GM1 .....	42°00'	(1)
GM2 .....	42°00'	(2)
GM3 .....	42°00'	(3)
GM5 .....	42°00'	68°30'
GM6 .....	42°30'	68°30'
GM9 .....	42°30'	(1)

<sup>1</sup> Massachusetts shoreline.

<sup>2</sup> Cape Cod shoreline on Cape Cod Bay.

<sup>3</sup> Cape Cod shoreline on the Atlantic Ocean.

(iii) *Rolling Closure Area III.* From May 1 through May 31, the restrictions specified in paragraph (g)(1) of this section apply to Rolling Closure Area III, which is the area bounded by straight lines connecting the following points in the order stated:

**ROLLING CLOSURE AREA III**

[May 1–May 31]

Point	N. Lat.	W. Long.
GM1 .....	42°00'	(1)
GM2 .....	42°00'	(2)
GM3 .....	42°00'	(3)
GM4 .....	42°00'	70°00'
GM23 .....	42°30'	70°00'
GM6 .....	42°30'	68°30'
GM14 .....	43°30'	68°30'
GM10 .....	43°30'	(4)

<sup>1</sup> Massachusetts shoreline.

<sup>2</sup> Cape Cod shoreline on Cape Cod Bay.

<sup>3</sup> Cape Cod shoreline on the Atlantic Ocean.

<sup>4</sup> Maine shoreline.

(iv) *Rolling Closure Area IV.* From June 1 through June 30, the restrictions specified in paragraph (g)(1) of this section apply to Rolling Closure Area

IV, which is the area bounded by straight lines connecting the following points in the order stated:

**ROLLING CLOSURE AREA IV**  
[June 1–June 30]

Point	N. Lat.	W. Long.
GM9 .....	42°30' .....	(1)
GM23 .....	42°30' .....	70°00'
GM17 .....	43°30' .....	70°00'
GM19 .....	43°30' .....	67°32' or (2)
GM20 .....	44°00' .....	67°21' or (2)
GM21 .....	44°00' .....	69°00'
GM22 .....	(3) .....	69°00'

<sup>1</sup> Massachusetts shoreline.  
<sup>2</sup> U.S.-Canada maritime boundary.  
<sup>3</sup> Maine shoreline.

(v) *Rolling Closure Area V.* From October 1 through November 30, the restrictions specified in paragraph (g)(1) of this section apply to Rolling Closure Area V, which is the area bounded by straight lines connecting the following points in the order stated:

**ROLLING CLOSURE AREA V**  
[October 1–November 30]

Point	N. lat.	W. long.
GM1 .....	42°00' .....	(1)
GM2 .....	42°00' .....	(2)
GM3 .....	42°00' .....	(3)
GM4 .....	42°00' .....	70°00'
GM8 .....	42°30' .....	70°00'
GM9 .....	42°30' .....	(1)

<sup>1</sup> Massachusetts shoreline.  
<sup>2</sup> Cape Cod shoreline on Cape Cod Bay.  
<sup>3</sup> Cape Cod shoreline on the Atlantic Ocean.

(2) \* \* \*  
(iii) \* \* \*

(A) For vessels fishing under charter/party regulations in a Rolling Closure Area described under § 648.81(g)(1), it has on board a letter of authorization issued by the Regional Administrator, which is valid from the date of enrollment through the duration of the closure or 3 months duration, whichever is greater; For vessels fishing under charter/party regulations in the Cashes Ledge Closure Area or Western Gulf of Maine Area Closure, as described under § 648.81 (h) and (i), respectively, it has on board a letter of authorization issued by the Regional Administrator, which is valid from the date of enrollment until the end of the fishing year.

(B) With the exception of tuna, fish harvested or possessed by the vessel are not sold or intended for trade, barter or sale, regardless of where the regulated species are caught;

(C) The vessel has no gear other than rod and reel or handline on board; and

(D) The vessel does not use any NE multispecies DAS during the entire period for which the letter of authorization is valid.

(iv) That are fishing with or using scallop dredge gear when fishing under a scallop DAS or when lawfully fishing in the Scallop Dredge Fishery Exemption Area as described in § 648.80(a)(11), provided the vessel does not retain any regulated NE multispecies during a trip, or on any part of a trip.

(v) That are fishing in the Raised Footrope Trawl Exempted Whiting Fishery, as specified in § 648.80(a)(15), and in the GOM Rolling Closure Area V, as specified in paragraph (g)(1)(v) of this section.

(h) *Cashes Ledge Closure Area.* (1) No fishing vessel or person on a fishing vessel may enter, fish in, or be in, and no fishing gear capable of catching NE multispecies, unless otherwise allowed in this part, may be in, or on board a vessel in the area known as the Cashes Ledge Closure Area, as defined by straight lines connecting the following points in the order stated:

**CASHES LEDGE CLOSURE AREA 1**

Point	N. Lat.	W. Long.
CL1 .....	43°07' .....	69°02'
CL2 .....	42°49.5' .....	68°46'
CL3 .....	42°46.5' .....	68°50.5'
CL4 .....	42°43.5' .....	68°58.5'
CL5 .....	42°42.5' .....	69°17.5'
CL6 .....	42°49.5' .....	69°26'
CL1 .....	43°07' .....	69°02'

<sup>1</sup> A chart depicting this area is available from the Regional Administrator upon request (see Table 1 to § 600.502 of this chapter).

(2) Paragraph (h)(1) of this section does not apply to persons on fishing vessels or fishing vessels that meet the criteria in paragraphs (g)(2) (ii) and (iii) of this section.

(i) *Western GOM Area Closure.* (1) No fishing vessel or person on a fishing vessel may enter, fish in, or be in, and no fishing gear capable of catching NE multispecies, unless otherwise allowed in this part, may be in, or on board a vessel in, the area known as the Western GOM Area Closure, as defined by straight lines connecting the following points in the order stated, except as specified in paragraphs (d) and (i)(2) of this section:

**WESTERN GOM AREA CLOSURE 1**

Point	N. Lat.	W. Long.
WGM1 .....	42°15' .....	70°15'
WGM2 .....	42°15' .....	69°55'
WGM3 .....	43°15' .....	69°55'
WGM4 .....	43°15' .....	70°15'

**WESTERN GOM AREA CLOSURE 1—**  
**Continued**

Point	N. Lat.	W. Long.
WGM1 .....	42°15' .....	70°15'

<sup>1</sup> A chart depicting this area is available from the Regional Administrator upon request (see Table 1 to § 600.502 of this chapter).

(2) Paragraph (i)(1) of this section does not apply to persons on fishing vessels or fishing vessels that meet the criteria in paragraphs (g)(2) (ii) and (iii) of this section.

\* \* \* \* \*

(n) *GB Seasonal Closure Area.* (1) From May 1 through May 31, no fishing vessel or person on a fishing vessel may enter, fish in, or be in, and no fishing gear capable of catching NE multispecies, unless otherwise allowed in this part, may be in the area known as the GB Seasonal Closure Area, as defined by the straight lines connecting the following points in the order stated, except as specified in paragraphs (d) and (n)(2) of this section:

**GEORGES BANK SEASONAL CLOSURE AREAS**  
[May 1–May 31]

Point	N. Lat.	W. Long.
GB1 .....	42°00' .....	(1)
GB2 .....	42°00' .....	68°30'
GB3 .....	42°20' .....	68°30'
GB4 .....	42°20' .....	67°20'
GB5 .....	41°30' .....	67°20'
CI1 .....	41°30' .....	69°23'
CI2 .....	40°45' .....	68°45'
CI3 .....	40°45' .....	68°30'
GB6 .....	40°30' .....	68°30'
GB7 .....	40°30' .....	69°00'
G10 .....	40°50' .....	69°00'
GB8 .....	40°50' .....	69°30'
GB9 .....	41°00' .....	69°30'
GB10 .....	41°00' .....	70°00'
G12 .....	(1) .....	70°00'

<sup>1</sup> Northward to its intersection with the shoreline of Mainland Massachusetts.

(2) Paragraph (n)(1) of this section does not apply to persons on fishing vessels or to fishing vessels:

(i) That meet the criteria in paragraphs (g)(2) (i) or (ii) of this section;

(ii) That are fishing as charter/party or recreational vessels; or

(iii) That are fishing with or using scallop dredge gear when fishing under a scallop DAS or when lawfully fishing in the Scallop Dredge Fishery Exemption Area as described in § 648.80(a)(11), provided the vessel uses an 8-inch (20.3-cm) twine top and complies with the NE multispecies possession restrictions for scallop vessels specified at § 648.80(h).

8. In § 648.82, paragraph (b); introductory paragraphs (k) and (k)(1), paragraphs (k)(1)(i), (k)(1)(ii), and (k)(2) are revised; paragraphs (k)(1) (vi) and (vii) are removed; and paragraphs (k)(3) through (5), and paragraph (l) are added to read as follows:

**§ 648.82 Effort-control program for multispecies limited access vessels.**

\* \* \* \* \*

(b) *DAS program—permit categories and allocations.* All limited access

NE multispecies permit holders shall be assigned to one of the following DAS permit categories according to the criteria specified. For the fishing year 2002 only, permit holders that may request a change in permit category, as specified in § 648.4(a)(1)(i)(I)(2), and that were issued a limited access permit prior to August 1, 2002, may request a change in permit category one time prior to either August 31, or within 45 days of permit issuance, whichever date is later. For the fishing year 2003 permit holders may request a change in permit category as specified in § 648.4(a)(1)(i)(I)(2). Each fishing year shall begin on May 1 and extend through April 30 of the following year. Beginning August 1, 2002, with the exception of the Small Vessel category described in paragraph (b)(3) of this section, NE multispecies DAS available for use will be calculated as described below.

(1) *Individual DAS category—DAS allocation.* Beginning August 1, 2002, for a vessel fishing under the Individual DAS category, NE multispecies DAS available for use for the May 1, 2002, through April 30, 2003, fishing year, and for the next fishing year, will be calculated based upon the fishing history associated with the vessel's permit, as described in paragraph (l)(1) of this section, as reduced as specified in paragraph (l)(2) of this section.

(2) *Fleet DAS category—DAS allocation.* Beginning August 1, 2002, for a vessel fishing under the Fleet DAS category, NE multispecies DAS available for use for the May 1, 2002, through April 30, 2003, fishing year, and for the next fishing year, will be calculated based upon the fishing history associated with the vessel's permit, as described in paragraph (l)(1) of this section, as reduced as specified in paragraph (l)(2) of this section.

(3) *Small Vessel category—(i) DAS allocation.* A vessel qualified and electing to fish under the Small Vessel category may retain up to 300 lb (136.1 kg) of cod, haddock, and yellowtail flounder, combined, and one Atlantic halibut per trip, without being subject to DAS restrictions, provided the vessel

does not exceed the yellowtail flounder possession restrictions specified under § 648.86(h). Such a vessel is not subject to a possession limit for other NE multispecies. Any vessel may elect to switch into this category, as provided in § 648.4(a)(1)(i)(I)(2), if such vessel meets or complies with the following:

(ii) The vessel is 30 ft (9.1 m) or less in length overall as determined by measuring along a horizontal line drawn from a perpendicular raised from the outside of the most forward portion of the stem of the vessel to a perpendicular raised from the after most portion of the stern.

(iii) If construction of the vessel was begun after May 1, 1994, the vessel must be constructed such that the quotient of the overall length divided by the beam is not less than 2.5.

(iv) Acceptable verification for vessels 20 ft (6.1 m) or less in length shall be USCG documentation or state registration papers. For vessels over 20 ft (6.1 m) in length, the measurement of length must be verified in writing by a qualified marine surveyor, or the builder, based on the vessel's construction plans, or by other means determined acceptable by the Regional Administrator. A copy of the verification must accompany an application for a NE multispecies permit.

(v) Adjustments to the Small Vessel category requirements, including changes to the length requirement, if required to meet fishing mortality goals, may be made by the Regional Administrator following framework procedures of § 648.90.

(4) *Hook-Gear category—DAS allocation.* Beginning August 1, 2002, for a vessel fishing under the Hook-gear category, NE multispecies DAS available for use for the May 1, 2002, through April 30, 2003, fishing year, and for the next fishing year, will be calculated based upon the fishing history associated with the vessel's permit, as described in paragraph (l)(1) of this section, as reduced as specified in paragraph (l)(2) of this section. A vessel fishing under this category in the DAS program must meet or comply with the gear restrictions specified under § 648.80(a)(3)(vii), (a)(4)(ii), (b)(2)(v) and (c)(2)(iv) when fishing in the respective regulated mesh areas.

(5) *Combination vessel category—DAS allocation.* Beginning August 1, 2002, for a vessel fishing under the Combination Vessel category, NE multispecies DAS available for use for the May 1, 2002, through April 30, 2003, fishing year, and for the next fishing year, will be calculated based upon the fishing history associated with the

vessel's permit, as described in paragraph (l)(1) of this section, as reduced as specified in paragraph (l)(2) of this section.

(6) *Large Mesh Individual DAS category—DAS allocation.* Beginning August 1, 2002, for a vessel fishing under the Large Mesh Individual DAS category, NE multispecies DAS available for use for the May 1, 2002, through April 30, 2003, fishing year, and for the next fishing year, will be calculated based upon the fishing history associated with the vessel's permit, as described in paragraph (l)(1) of this section, as reduced as specified in paragraph (l)(2) of this section, and then increased by 36 percent. To be eligible to fish under the Large Mesh Individual DAS category, a vessel, while fishing under this category, must fish under the specific regulated mesh area minimum mesh size restrictions, as specified in paragraphs (a)(3)(iii), (a)(4)(iii), (b)(2)(iii) and (c)(2)(ii) of this section.

(7) *Large Mesh Fleet DAS category—DAS allocation.* Beginning August 1, 2002, for a vessel fishing under the Large Mesh Fleet DAS category, NE multispecies DAS available for use for the May 1, 2002, through April 30, 2003, fishing year, and for the next fishing year, will be calculated based upon the fishing history associated with the vessel's permit, as described in paragraph (l)(1) of this section, as reduced as specified in paragraph (l)(2) of this section, and then increased by 36 percent. To be eligible to fish under the Large Mesh Fleet DAS category, a vessel, while fishing under this category, must fish under the specific regulated mesh area minimum mesh size restrictions, as specified in paragraphs (a)(3)(iii), (a)(4)(iii), (b)(2)(iii) and (c)(2)(ii) of this section.

\* \* \* \* \*

(k) *Gillnet restrictions.* Beginning August 1, 2002, vessels issued a limited access NE multispecies permit and fishing under a NE multispecies DAS with gillnet gear must obtain an annual designation as either a Day or Trip gillnet vessel as described in § 648.4(c)(2)(iii).

(1) *Day gillnet vessels.* A Day gillnet vessel fishing with gillnet gear under a multispecies DAS is not required to remove gear from the water upon returning to the dock and calling-out of the DAS program, provided the vessel complies with the restrictions specified in paragraphs (k)(1)(i) through (v) of this section. Vessels electing to fish under the Day gillnet designation must have on board written confirmation issued by the Regional Administrator, that the vessel is a Day gillnet vessel.

(i) *Number and size of nets.* Vessels may not fish with, haul, possess, or deploy more than the number of nets specified in paragraphs (k)(1)(i)(A) through (D) of this section, when fishing in the respective regulated mesh areas, provided the nets are tagged in accordance with paragraph (k)(1)(ii) of this section, unless otherwise specified in this paragraph. Such vessels, in accordance with § 648.23(b), may stow additional nets not to exceed 160, counting deployed nets. Nets may not be longer than 300 ft (91.4 m), or 50 fathoms, in length.

(A) A Day gillnet vessel fishing under a NE multispecies DAS and fishing in the GOM Regulated Mesh Area, as described in § 648.80(a)(1), may not fish with, haul, possess, or deploy more than 50 roundfish gillnets or 100 flatfish gillnets, except as provided in § 648.92(b)(8)(i). Vessels may fish any combination of roundfish and flatfish gillnets up to 100 nets, provided that the number of roundfish and flatfish gillnets does not exceed the limitations specified in this paragraph (k)(1)(i)(A).

(B) A Day gillnet vessel fishing under a NE multispecies DAS and fishing in the GB Regulated Mesh Area as described in § 648.80(a)(2), may not fish with, haul, possess, or deploy more than 50 nets, except as provided in § 648.92(b)(8)(i). Vessels may fish any combination of roundfish and flatfish gillnets, up to 50 nets.

(C) A Day gillnet vessel fishing under a NE multispecies DAS and fishing in the SNE Regulated Mesh Area as described in § 648.80(b)(1), may not fish with, haul, possess, or deploy more than 75 nets, except as provided in § 648.92(b)(8)(i). Vessels may fish any combination of roundfish and flatfish gillnets, up to 75 nets.

(D) A Day gillnet vessel fishing under a NE multispecies DAS and fishing in the Mid-Atlantic Regulated Mesh Area, as described in § 648.80(c)(1), may not fish with, haul, possess, or deploy more than 80 roundfish gillnets or 160 flatfish gillnets. Vessels may fish any combination of roundfish and flatfish gillnets, up to 160 nets, provided that the number of roundfish and flatfish gillnets does not exceed the limitations specified in this paragraph (k)(1)(i)(D).

(ii) *Tagging requirements.* When fishing under a NE multispecies DAS, all gillnets fished, hauled, possessed, or deployed by a vessel in the Day gillnet category, must be tagged according to the provisions specified in paragraphs (k)(1)(ii)(A) through (D) of this section, when fishing in the respective regulated mesh areas, or as otherwise specified under § 648.92(b)(8)(ii). Tags must be obtained as described in

§ 648.4(c)(2)(iii), and vessels must have on board written confirmation issued by the Regional Administrator, indicating that the vessel is a Day gillnet vessel. The vessel operator must produce all net tags upon request by an authorized officer. A vessel may have tags on board in excess of the number of tags corresponding to the allowable number of nets, provided such tags are onboard the vessel and can be made available for inspection.

(A) When fishing in the GOM Regulated Mesh Area, roundfish nets must be tagged with two tags per net, with one tag secured to each bridle of every net, within a string of nets, and flatfish nets must have one tag per net, with one tag secured to every other bridle of every net within a string of nets.

(B) When fishing in the Mid-Atlantic Regulated Mesh Area, roundfish gillnets must be tagged with two tags per net, with one tag secured to each bridle of every net, within a string of nets, and flatfish gillnets must be tagged with one tag per net, with one tag secured to every other bridle of every net within a string of nets.

(C) When fishing in the GB Regulated Mesh Area, roundfish or flatfish gillnets must be tagged with 2 tags per net, with one tag secured to each bridle of every net, within a string of nets.

(D) When fishing in the SNE Regulated Mesh Area, roundfish or flatfish gillnets must be tagged with 2 tags per net, with one tag secured to each bridle of every net within a string of nets.

\* \* \* \* \*

(2) *Trip gillnet vessels.* When fishing under a NE multispecies DAS, a Trip gillnet vessel is required to remove all gillnet gear from the water before calling out of a NE multispecies DAS under § 648.10(c)(3), and must comply with the restrictions specified in paragraphs (k)(2)(i) and (ii) of this section. When not fishing under a NE multispecies DAS, Trip gillnet vessels may fish in an exempted fishery with gillnet gear as authorized under the exemptions described in § 648.80. Vessels electing to fish under the Trip gillnet designation must have on board written confirmation issued by the Regional Administrator, that the vessel is a Trip gillnet vessel.

(i) *Number and size of nets.* Vessels may not fish with, haul, possess, or deploy more than the number of nets specified in paragraphs (k)(2)(i)(A) through (D) of this section, when fishing in the respective regulated mesh areas, provided the nets are tagged in accordance with paragraph (k)(1)(ii) of

this section, unless otherwise specified in this paragraph. Such vessels, in accordance with § 648.23(b), may stow nets in excess of the number specified in paragraph (k)(2)(i)(A) through (C). Nets may not be longer than 300 ft (91.4 m), or 50 fathoms, in length.

(A) A Trip gillnet vessel fishing under a NE multispecies DAS and fishing in the GOM Regulated Mesh Area, as described in § 648.80(a)(1), may not fish with, haul, possess, or deploy more than 150 gillnets, except as provided in § 648.92(b)(8)(i). Vessels may fish any combination of roundfish and flatfish gillnets up to 150 nets.

(B) A Trip gillnet vessel fishing under a NE multispecies DAS and fishing in the GB Regulated Mesh Area as described in § 648.80(a)(2), may not fish with, haul, possess, or deploy more than 50 nets, except as provided in § 648.92(b)(8)(i). Vessels may fish any combination of roundfish and flatfish gillnets, up to 50 nets.

(C) A Trip gillnet vessel fishing under a NE multispecies DAS and fishing in the SNE Regulated Mesh Area as described in § 648.80(b)(1), may not fish with, haul, possess, or deploy more than 75 nets, except as provided in § 648.92(b)(8)(i). Vessels may fish any combination of roundfish and flatfish gillnets, up to 75 nets.

(D) A Trip gillnet vessel fishing under a NE multispecies DAS and fishing in the Mid-Atlantic Regulated Mesh Area is not subject to a restrictions on number of allowable nets.

(ii) *Tagging requirements.* When fishing under a NE multispecies DAS, all gillnets fished, hauled, possessed, or deployed by a vessel in the Trip gillnet category, must be tagged according to the provisions specified in paragraphs (k)(2)(ii)(A) through (C) of this section, when fishing in the respective regulated mesh areas, or as otherwise specified under § 648.92(b)(8)(ii) or under paragraph (k)(2)(ii)(D) of this section. Tags must be obtained as described in § 648.4(c)(2)(iii), and vessels must have on board written confirmation issued by the Regional Administrator, indicating that the vessel is a Trip gillnet vessel. The vessel operator must produce all net tags upon request by an authorized officer. A vessel may have tags on board in excess of the number of tags corresponding to the allowable number of nets, provided such tags are on board the vessel and can be made available for inspection.

(A) When fishing in the GOM Regulated Mesh Area, roundfish or flatfish nets must be tagged with one tag per net, secured to every other bridle of every net within a string of nets.

(B) When fishing in the GB Regulated Mesh Area, roundfish or flatfish gillnets must be tagged with 2 tags per net, with one tag secured to each bridle of every net, within a string of nets.

(C) When fishing in the SNE Regulated Mesh Area, roundfish or flatfish gillnets must be tagged with 2 tags per net, with one tag secured to each bridle of every net within a string of nets.

(D) When fishing in the Mid-Atlantic Regulated Mesh Area, gillnets are not required to be tagged.

(3) *Lost tags.* Vessel owners or operators are required to report lost, destroyed, and missing tag numbers as soon as feasible after tags have been discovered lost, destroyed or missing, by letter or fax to the Regional Administrator.

(4) *Replacement tags.* Vessel owners or operators seeking replacement of lost, destroyed, or missing tags must request replacement of tags by letter or fax to the Regional Administrator. A check for the cost of the replacement tags must be received before tags will be re-issued.

(5) *Removal of nets from the water.* Gillnets must be removed from the water when the vessel's annual NE multispecies DAS allocation has been used.

(1) *Used DAS baseline and DAS reduction—(1) Used DAS baseline.* For all valid limited access NE multispecies permits and NE multispecies confirmation of permit histories (CPH), beginning with the 2002 fishing year, a vessel's used DAS baseline will be based on the fishing history associated with its permit and will be determined by the highest number of DAS fished during a single fishing year, as specified in paragraphs (1)(1)(i) through (iv) of this section, during the 5-year period from May 1, 1996, through April 30, 2001, not to exceed the vessel's annual allocation prior to August 1, 2002. If the highest number of DAS fished under such permit during a single fishing year is less than 10 DAS, the used DAS baseline will be 10 DAS. If a vessel that was originally issued a limited access NE multispecies permit was lawfully replaced in accordance with the replacement restrictions specified in section § 648.4(a), then the used DAS baseline will be defined based upon the DAS used by the original vessel and by subsequent vessel(s) associated with the permit during the 5-year period specified above.

(i) Except as provided in paragraphs (1)(1)(ii) through (iv) of this section, historic DAS use will be determined as specified under the DAS notification requirements in § 648.10.

(ii) For a vessel exempt from or not subject to the DAS notification system, specified in § 648.10, during the period May 1996 through June 1996, the vessel's used DAS baseline for that period will be defined based on the vessel's DAS use, calculated from vessel trip reports submitted to NMFS prior to April 9, 2002.

(iii) For a vessel enrolled in a Large Mesh DAS category, as specified in § 648.82(b)(6) and (7), calculation of the used DAS baseline will be determined based on the highest number of DAS fished during a single fishing year during the 1996 through 2000 fishing years, from May 1, 1996, through April 30, 2001, not to exceed the vessel's allocation in any given year. That is, the used DAS baseline shall not be based on additional DAS the vessel fished under the Large Mesh DAS category.

(iv) For vessels fishing under the Day gillnet designation, as specified under § 648.82(k)(1), used DAS, beginning on May 1, 1997 (implementation of differential DAS accounting for gillnet vessels, i.e., Framework Adjustment 20), for trips greater than 3 hours but less than or equal to 15 hours, will be counted as 15 hours. Trips less than or equal to 3 hours, or greater than 15 hours, will be counted as actual time.

(2) *DAS reduction.* For fishing years beginning May 1, 2002, and May 1, 2003, a NE multispecies DAS vessel, unless otherwise specified in paragraph (1)(2) of this section, shall be allocated 80 percent of its DAS baseline specified under paragraph (1)(1) of this section. An additional 36 percent will be subsequently added and available for use for participants in the Large Mesh DAS categories, as described at § 648.80(b)(6) and (7), provided the participants comply with the applicable gear restrictions.

(i) NE multispecies DAS fished by a vessel during the period May 1, 2002, through July 31, 2002, will be deducted from the DAS available for use for the 2002 fishing year, as calculated under § 648.80(l)(2).

(ii) For vessels fishing under the Day gillnet designation, as specified in § 648.82(k)(1), NE multispecies DAS for the period May 1, 2002, through July 31, 2002, for trips greater than 3 hours, but less than or equal to 15 hours, will be counted as 15 hours. Trips less than or equal to 3 hours, or greater than 15 hours, will be counted as actual time.

(iii) For vessels fishing with gear other than gillnet gear, NE multispecies DAS used for the period May 1, 2002, through July 31, 2002, will be counted as actual time.

(iv) Beginning on August 1, 2002, if the number of DAS used by a vessel

during the May 1 through July 31, 2002, period equals or exceeds the number of DAS available for use calculated by NMFS as described in this section, the number of DAS available for use for the remainder of the 2002 fishing year will be zero, unless the vessel has available carry-over days from the previous fishing year, as specified under paragraph (a)(1) of this section.

(3) *Correction of used DAS baseline.*

(i) A vessel's used DAS baseline as determined under paragraph (1)(1) of this section, may be corrected, if a mistake has been made, by submitting a written request to correct the DAS baseline. The request to correct must be received by the Regional Administrator no later than August 31, 2002. The request to correct must be in writing and provide credible evidence that the information used by the Regional Administrator in making the determination of the vessel's DAS baseline was based on mistaken or incorrect data. The decision on whether to correct the DAS baseline shall be determined solely on the basis of written information submitted, unless the Regional Administrator specifies otherwise. The Regional Administrator's decision on whether to correct the DAS baseline is the final decision of the Department of Commerce.

(ii) *Status of vessel's pending request for a correction of used DAS baseline.*

While a vessel's request for a correction is under consideration, the vessel is limited to fishing with the number of DAS in accordance with § 648.82(l).

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

**§ 648.83 Multispecies minimum fish sizes.**

(a) \* \* \*

(1) Minimum fish sizes for recreational vessels and charter/party vessels that are not fishing under a NE multispecies DAS are specified in § 648.89. Except as provided in § 648.17, all other vessels are subject to the following minimum fish sizes, determined by total length (TL):

**MINIMUM FISH SIZES (TL) FOR COMMERCIAL VESSELS**

Species	Sizes (inches)
Cod .....	22 (55.9 cm)
Haddock .....	19 (48.3 cm)
Pollock .....	19 (48.3 cm)
Witch flounder (gray sole) ..	14 (35.6 cm)
Yellowtail flounder .....	13 (33.0 cm)
American plaice (dab) .....	14 (35.6 cm)
Atlantic halibut .....	36 (91.4 cm)
Winter flounder (blackback) ..	12 (30.5 cm)
Redfish .....	9 (22.9 cm)

\* \* \* \* \*

10. In § 648.86, paragraphs (b)(1)(i), (b)(1)(ii)(A), (b)(2) and (b)(3) are revised and paragraph (h) is added to read as follows:

**§ 648.86 Multispecies possession restrictions.**

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(i) Except as provided in paragraph (b)(1)(ii) and (b)(4) of this section, and subject to the call-in provision specified in § 648.10(f)(3)(i), a vessel fishing under a NE multispecies DAS may land only up to 500 lb (227.3 kg) of cod during the first 24-hr period after the vessel has started a trip on which cod were landed (e.g., a vessel that starts a trip at 6 a.m. may call out of the DAS program at 11 a.m. and land up to 500 lb (227.3 kg), but the vessel cannot land any more cod on a subsequent trip until at least 6 a.m. on the following day). For each trip longer than 24 hr, a vessel may land up to an additional 500 lb (227.2 kg) for each additional 24-hr block of DAS fished, up to a maximum of 4,000 lb (1,818.2 kg) per trip (e.g., a vessel that has been called into the DAS program for more than 24 hr, but less than 48 hr, may land up to, but no more than 1,000 lb (454.5 kg) of cod). A vessel that has been called into only part of an additional 24-hr block of a DAS (e.g. a vessel that has been called into the DAS program for more than 24 hr but less than 48 hr) may land up to an additional 500 lb (227.2 kg) of cod for that trip provided the vessel complies with § 648.86(b)(1)(ii). Cod on board a vessel subject to this landing limit must be separated from other species of fish and stored so as to be readily available for inspection.

(ii) \* \* \*

(A) The vessel operator does not call out of the DAS program as described under § 648.10(c)(3) and does not depart from a dock or mooring in port, unless transiting as allowed in paragraph (b)(3) of this section, until the rest of the additional 24-hr block of the DAS has elapsed regardless of whether all of the cod on board is offloaded (e.g., a vessel that has been called into the DAS program for 25 hr, at the time of landing, may land only up to 1000 lb (454.5 kg) of cod, provided the vessel does not call out of the DAS program or leave port until 48 hr have elapsed from the beginning of the trip).

(2) *Georges Bank Cod Landing and Maximum Possession Limits.* (i) For each fishing year, a vessel that is exempt from the landing limit described in paragraph (b)(1) of this section and fishing under a NE multispecies DAS

may land up to 2,000 lb (907.2 kg) of cod during the first 24-hr period after the vessel has started a trip on which cod were landed (e.g., a vessel that starts a trip at 6 a.m. may call out of the DAS program at 11 a.m. and land up to 2,000 lb (907.2 kg)), but the vessel cannot land any more cod on a subsequent trip until at least 6 a.m. on the following day). For each trip longer than 24 hr, a vessel may land up to an additional 2,000 lb (907.2 kg) for each additional 24-hr block of DAS fished, or part of an additional 24-hr block of DAS fished, up to a maximum of 20,000 lb (9,071.8 kg) per trip (e.g., a vessel that has been called into the DAS program for 48 hr or less, but more than 24 hr, may land up to, but no more than 4,000 lb (1,814.4 kg) of cod). A vessel that has called into only part of an additional 24-hr block of a DAS (e.g., a vessel that has called into the DAS program for more than 24 hr, but less than 48 hr) may land up to an additional 2,000 lb (907.2 kg) of cod for that trip of cod for that trip provided the vessel complies with 648.86(b)(2)(ii). Cod on board a vessel subject to this landing limit must be separated from other species of fish and stored so as to be readily available for inspection.

(ii) A vessel subject to the cod landing limit restrictions described in paragraph (b)(1)(i) of this section may come into port with and offload cod in excess of the landing limit as determined by the number of DAS elapsed since the vessel called into the DAS program, provided that:

(A) The vessel operator does not call out of the DAS program as described under § 648.10(c)(3) and does not depart from a dock or mooring in port, unless transiting as allowed in paragraph (b)(3) of this section, until the rest of the additional 24-hr block of the DAS has elapsed, regardless of whether all of the cod on board is offloaded (e.g., a vessel that has been called into the DAS program for 25 hr, at the time of landing, may land only up to 4,000 lb (1,814.4 kg) of cod, provided the vessel does not call out of the DAS program or leave port until 48 hr have elapsed from the beginning of the trip).

(B) [Reserved]

(3) *Transiting.* A vessel that has exceeded the cod landing limit as specified in paragraphs (b)(1) and (2) of this section, and is, therefore, subject to the requirement to remain in port for the period of time described in paragraphs (b)(1)(ii)(A) and (b)(2)(ii)(A) of this section, may transit to another port during this time, provided that the vessel operator notifies the Regional Administrator either at the time the vessel reports its hailed weight of cod or at a later time prior to transiting, and

provides the following information: Vessel name and permit number, destination port, time of departure, and estimated time of arrival. A vessel transiting under this provision must stow its gear in accordance with one of the methods specified in § 648.23(b) and may not have any fish on board the vessel.

\* \* \* \* \*

(h) *Yellowtail Flounder*—(1) *Yellowtail flounder possession limit north of 40°00' N. lat. in the Georges Bank or Gulf of Maine Regulated Mesh Area.* Beginning August 1, 2002, except when fishing under the recreational and charter/party restrictions specified under § 648.89, unless otherwise restricted as specified in § 648.82(b)(3) and § 648.88(a) and (c), there is no possession limit for yellowtail flounder for a vessel issued a NE multispecies permit and fishing under a NE multispecies DAS north of 40°00' N. lat. in either the GB or GOM Regulated Mesh Areas, provided the vessel complies with the following requirements in order to fish for, possess, or land yellowtail flounder:

(i) The vessel possesses on board a yellowtail flounder possession/landing authorization letter issued by the Regional Administrator (RA). The vessel owner is required to contact a designee of the RA to obtain this exemption letter.

(ii) The vessel does not fish in the SNE or MA Regulated Mesh Area, for a minimum of 30 consecutive days (when fishing under the NE multispecies DAS program, or under the monkfish DAS program if the vessel is fishing under the limited access monkfish Category C or D permit provisions). Vessels subject to these restrictions may transit the SNE and MA Regulated Mesh Areas with yellowtail flounder on board the vessel, provided that the gear is stowed in accordance with one of the provisions of § 648.23(b).

(2) *Yellowtail flounder possession limit north of 40°00' N. lat. in the Southern New England and Mid-Atlantic Regulated Mesh Areas.* Beginning August 1, 2002, except when fishing under the recreational and charter/party restrictions specified under § 648.89, unless further restricted as specified in § 648.82(b)(3) and § 648.88(a) and (c), a vessel issued a NE multispecies permit and fishing any portion of a trip under a NE multispecies DAS, or under a monkfish DAS when fishing under the limited access monkfish Category C or D permit provisions, north of 40°00' N. lat. in the SNE or MA Regulated Mesh Areas is subject to the following requirements

and trip limits in order to fish for, possess, or land yellowtail flounder:

(i) The vessel possesses on board a yellowtail flounder possession/landing authorization letter issued by the Regional Administrator (RA). The vessel owner is required to contact a designee of the RA to obtain this exemption letter.

(ii) The vessel does not fish south of 40°00' N. lat. for a minimum of 30 consecutive days (when fishing under the NE multispecies DAS program, or under the monkfish DAS program if the vessel is fishing under the limited access monkfish Category C or D permit provisions). Vessels subject to these restrictions may transit the GOM and GB Regulated Mesh Areas and the area south of 40°00' N. lat. provided that the gear is stowed in accordance with one of the provisions of § 648.23(b).

(iii) During the period March through May, vessels may land or possess on board only up to 250 lb (113.6 kg) of yellowtail flounder per trip; and

(iv) During the period June through February, vessels may land only up to 750 lb (340.9 kg) of yellowtail flounder per DAS, or any part of a DAS, up to a maximum possession limit of 3,000 lb (1,364.0 kg) per trip.

(3) *Yellowtail flounder prohibition.* Beginning August 1, 2002, unless fishing under the recreational and charter/party restrictions specified under § 648.89, or transiting as provided for under § 648.86(h)(1) or (2), a vessel may not harvest, possess or land yellowtail flounder in or from the area south of 40°00' N. lat.

11. In § 648.88, the introductory text for paragraph (a), and paragraphs (a)(1) and (c) are revised to read as follows:

**§ 648.88 Multispecies open access permit restrictions.**

(a) *Handgear permit.* Beginning August 1, 2002, NE multispecies open access Handgear permits shall not be issued to any vessel that has never been issued such permit, or has not submitted a complete application for such permit as of August 1, 2002. A vessel issued a valid open access NE multispecies Handgear permit is subject to the following restrictions:

(1) Unless otherwise restricted under § 648.86(h), the vessel may possess and land up to 200 lb (90.9 kg) of cod, haddock, and yellowtail flounder, combined, one Atlantic halibut, per trip, and unlimited amounts of the other NE multispecies, provided that the vessel does not use or possess on board gear other than rod and reel or handlines while in possession of, fishing for, or landing NE multispecies, and provided

it has at least one standard tote on board.

(c) *Scallop multispecies possession limit permit.* A vessel that has been issued a valid open access scallop multispecies possession limit permit may possess and land up to 300 lb (136.1 kg) of regulated species when fishing under a scallop DAS allocated under § 648.53, provided the vessel does not fish for, possess, or land haddock from January 1 through June 30, as specified under § 648.86(a)(2)(i), and provided that the amount of yellowtail flounder on board the vessel does not exceed the trip limitations specified in § 648.86(h) and provided the vessel has at least one standard tote on board.

12. In § 648.89, paragraphs (b)(1), (c), and (e)(1) are revised to read as follows:

**§ 648.89 Recreational and charter/party restrictions.**

(b) \* \* \*

(1) *Minimum fish sizes.* Persons aboard charter or party vessels permitted under this part and not fishing under the NE multispecies DAS program, and private recreational fishing vessels in the EEZ, may not retain fish smaller than the minimum fish sizes, measured in total length (TL) as follows:

**MINIMUM FISH SIZES (TL) FOR CHARTER, PARTY, AND PRIVATE RECREATIONAL VESSELS**

Species	Sizes (inches)
Cod .....	23 (58.4 cm)
Haddock .....	23 (58.4 cm)
Pollock .....	19 (48.3 cm)
Witch flounder (gray sole) ..	14 (35.6 cm)
Yellowtail flounder .....	13 (33.0 cm)
Atlantic halibut .....	36 (91.4 cm)
American plaice (dab) .....	14 (35.6 cm)
Winter flounder (blackback)	12 (30.5 cm)
Redfish .....	9 (22.9 cm)

\* \* \* \* \*

(c) *Cod and haddock possession restrictions—(1) Private recreational vessels.* (i) Each person on a private recreational vessel may possess per trip no more than 10 cod and/or haddock, combined, in, or harvested from the EEZ, unless further restricted under paragraph (c)(1)(ii) of this section.

(ii) During the period December 1 through March 31, each person on a private recreational vessel fishing any part of a trip in the GOM Regulated Mesh Area as defined in § 648.80(a)(1), may possess no more than 10 cod and/or haddock combined, no more than 5

of which may be cod, in, or harvested from the EEZ.

(iii) For purposes of counting fish, fillets will be converted to whole fish at the place of landing by dividing the number of fillets by two. If fish are filleted into a single (butterfly) fillet, such fillet shall be deemed to be from one whole fish.

(iv) Cod and haddock harvested by private recreational vessels with more than one person aboard may be pooled in one or more containers. Compliance with the possession limit will be determined by dividing the number of fish on board by the number of persons on board. If there is a violation of the possession limit on board a vessel carrying more than one person, the violation shall be deemed to have been committed by the owner or operator of the vessel.

(v) Cod and haddock must be stored so as to be readily available for inspection.

(2) *Charter/party vessels.* Charter/party vessels fishing any part of a trip in the GOM Regulated Mesh Area as defined in § 648.80(a)(1), are subject to the following possession limit restrictions:

(i) During the period April 1 through November 30, each person on the vessel may possess no more than 10 cod and/or haddock combined.

(ii) During the period December 1 through March 31, each person on the vessel may possess no more than 10 cod and/or haddock combined, no more than 5 of which may be cod.

(iii) For purposes of counting fish, fillets will be converted to whole fish at the place of landing by dividing the number of fillets by two. If fish are filleted into a single (butterfly) fillet, such fillet shall be deemed to be from one whole fish.

(iv) Cod and haddock harvested by charter/party vessels with more than one person aboard may be pooled in one or more containers. Compliance with the possession limits will be determined by dividing the number of fish on board by the number of persons on board. If there is a violation of the possession limits on board a vessel carrying more than one person, the violation shall be deemed to have been committed by the owner or operator of the vessel.

(v) Cod and haddock must be stored so as to be readily available for inspection.

(3) *Atlantic halibut.* Charter and party vessels permitted under this part, and recreational fishing vessels fishing in the EEZ, may not possess, on board, more than one Atlantic halibut.

\* \* \* \* \*

(e) \* \* \*

(1) *Gulf of Maine Closed Areas.* A vessel fishing under charter/party regulations may not fish in the Gulf of Maine closed areas specified in § 648.81(g)(1) through (i)(1), during the time periods specified in those sections, unless the vessel has on board a letter of authorization issued by the Regional Administrator pursuant to §§ 648.81(g)(2)(iii) and 648.89(e)(3). The letter of authorization is required for a minimum of 3 months if the vessel intends to fish in the seasonal GOM closure areas, or required for the rest of the fishing year, beginning with the start of the participation period of the letter of authorization, if the vessel intends to fish in the year-round GOM closure areas.

\* \* \* \* \*

13. In § 648.91, paragraphs (c)(1)(i) and (ii) are revised to read as follows:

**§ 648.91 Monkfish regulated mesh areas and restrictions on gear and methods of fishing.**

\* \* \* \* \*

(c) \* \* \*

(1) \* \* \*

(i) *Trawl nets while on a monkfish DAS.* Except as provided in paragraph (c)(1)(ii) of this section, the minimum mesh size for any trawl net, including beam trawl nets, used by a vessel fishing under a monkfish DAS is 10-inch (25.4-cm) square or 12-inch (30.5-cm) diamond mesh throughout the codend for at least 45 continuous meshes forward of the terminus of the net. The minimum mesh size for the remainder of the trawl net is the regulated mesh size specified under § 648.80(a)(3), (a)(4), (b)(2)(i), or (c)(2)(i) of the Northeast multispecies regulations,

depending upon and consistent with the NE multispecies regulated mesh area being fished.

(ii) *Trawl nets while on a monkfish and NE multispecies DAS.* For vessels issued a Category C or D limited access monkfish permit and fishing with trawl gear under both a monkfish and NE multispecies DAS, the minimum mesh size is that allowed under regulations governing mesh size at § 648.80(a)(3), (a)(4), (b)(2)(i), or (c)(2)(i), depending upon, and consistent with, the NE multispecies regulated mesh area being fished.

\* \* \* \* \*

14. In § 648.92, paragraphs (b)(2) and (b)(8)(i) are revised to read as follows:

**§ 648.92 Effort-control program for monkfish limited access vessels.**

\* \* \* \* \*

(b) \* \* \*

(2) *Category C and D limited access monkfish permit holders.* Each monkfish DAS used by a limited access multispecies or scallop vessel holding a Category C or D limited access monkfish permit shall also be counted as a multispecies or scallop DAS, as applicable, except when, beginning August 1, 2002, a Category C or D vessel that has an allocation of multispecies DAS under § 648.82(l) that is less than 40 (the number of monkfish DAS) for the fishing year May 1 through April 30, may fish under Category A or B provisions, as applicable, for the number of DAS that equal the difference between 40 and the number of allocated multispecies DAS. For such vessels, when the total allocation of multispecies DAS have been used, a monkfish DAS may be used without concurrent use of a multispecies DAS.

(For example, if a monkfish Category D vessel's multispecies DAS allocation is 30, and the vessel fished 30 monkfish DAS, 30 multispecies DAS would also be used. However, after all 30 multispecies DAS are used the vessel may utilize its remaining 10 monkfish DAS to fish on monkfish, without a multispecies DAS being used, provided that the vessel fishes under the regulations pertaining to a Category B vessel and does not retain any regulated multispecies.)

\* \* \* \* \*

(8) \* \* \*

(i) *Number and size of nets. (A) Category A and B vessels.* A vessel issued a monkfish limited access Category A or B permit and fishing under a monkfish DAS may not fish with, haul, possess, or deploy more than 160 gillnets. Nets may not be longer than 300 ft (91.44 m), or 50 fathoms, in length.

(B) *Category C and D vessels.* A vessel issued a monkfish limited access Category C or D permit and fishing under a monkfish DAS may not fish with, haul, possess, or deploy more than 150 gillnets. A vessel issued a NE multispecies limited access permit and a limited access monkfish permit, and fishing under a monkfish DAS, may fish any combination of monkfish, roundfish, and flatfish gillnets, up to 150 nets total, provided that the number of monkfish, roundfish, and flatfish gillnets is consistent with the limitations of § 648.82. Nets may not be longer than 300 ft (91.4 m), or 50 fathoms, in length.

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