

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[DA 09–1357, MB Docket No. 07–279; RM–11411; RM–11422; RM–11423].

### FM Table of Allotments, Buffalo, Iola, Madisonville, and Normangee, Texas.

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** The staff grants a counterproposal filed by Roy E. Henderson to allot Channel 299A to Buffalo, Texas, as a second local service. The staff also dismisses a rulemaking petition filed by Charles Crawford to allot Channel 299A at Iola, Texas, and denies a counterproposal filed by Katherine Pyeatt to allot Channel 267A at Normangee, Texas. The reference coordinates for Channel 299A at Buffalo, Texas, are 31–28–44 NL and 96–10–02 WL.

**DATES:** Effective August 10, 2009.

**ADDRESSES:** Secretary, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Andrew J. Rhodes, Media Bureau, (202) 418–2180.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Report and Order, MB Docket No. 07–279, DA 09–1357, adopted June 17, 2009, and released June 19, 2009. The full text of this Commission document is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., 445 12th Street, SW, Room CY–B402, Washington, DC 20554, 800–378–3160 or via the company's website, <<http://www.bcpweb.com>>.

This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed information collection burden "for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4). The Commission will send a copy of the Report and Order in this proceeding in a report to be sent to Congress and the Government Accountability Office pursuant to the

Congressional Review Act, see 5 U.S.C. 801(a)(1)(A).

The Notice of Proposed Rule Making in this proceeding proposed the allotment of Channel 299A at Iola, Texas. See 73 FR 1576 (January 9, 2008). The Report and Order dismisses this rulemaking proposal because Crawford did not file a continuing expression of interest in the proposed allotment as required in the Notice of Proposed Rule Making. The Report and Order also denies Pyeatt's counterproposal on technical grounds because it is no longer capable of being implemented. Specifically, the allotment of Channel 267A at Normangee requires that Pyeatt's Station KKL(B)(FM), Madisonville, Texas, be modified from Channel 267A to Channel 299C3. However, this modification of the Station KKL(B)(FM) construction permit to a higher class, non-adjacent channel cannot be made consistent with the requirements of Section 1.420(g) of the Commission's rules because a competing expression of interest in Channel 299C3 at Madisonville, Texas, was filed, and there is no other equivalent class channel available at Madisonville to accommodate this additional expression of interest. Henderson's counterproposal was the sole remaining proposal and was granted because it would provide a second aural transmission service, as well as a first commercial service, to Buffalo.

### List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

■ As stated in the preamble, the Federal Communications Commission amends 47 CFR part 73 as follows:

### PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334, 336.

#### 73.202 [Amended]

■ 2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding Buffalo, Channel 299A.

Federal Communications Commission.

**John A. Karousos,**  
Assistant Chief.

[FR Doc. E9–16044 Filed 7–7–09; 8:45 am]

**BILLING CODE 6712–01–S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 50 CFR Part 648

[Docket No. 080521698–91087–03]

RIN 0648–AW87

### Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Secretarial Final Interim Action

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

**ACTION:** Temporary final rule; interim measures.

**SUMMARY:** This action modifies interim management measures implemented for the Northeast (NE) multispecies fishery through a previous interim final rule, and corrects several errors. Specifically, this rule removes the current trip limit for Georges Bank (GB) winter flounder and increases the white hake trip limit, reinstates regulatory provisions of the NE Multispecies Day-at-Sea (DAS) Leasing Program and the Closed Area I Hook Gear Haddock Special Access Program (SAP) that were inadvertently removed, and corrects several Total Allowable Catch (TAC) specifications, and latitude/longitude coordinates.

**DATES:** Effective July 2, 2009, through October 28, 2009.

**FOR FURTHER INFORMATION CONTACT:** Tom Warren, Fishery Policy Analyst, (978) 281–9347, fax (978) 281–9135.

### SUPPLEMENTARY INFORMATION:

#### Correction of Errors and Clarification

A temporary rule, which modified the NE Multispecies fishery management plan (FMP) by temporarily suspending the differential DAS counting provisions and extending the deadline for NE Multispecies DAS Leasing Program applications for the 2008 fishing year, published in the **Federal Register** on March 11, 2009 (74 FR 10513), with public comment accepted through April 10, 2009. This temporary rule was in response to a January 26, 2009, Federal Court Order in the case of *Commonwealth of Massachusetts and State of New Hampshire v. Carlos M. Gutierrez* (Civil Action No.: 06–12110–EFH) (Court Order), which suspended the regulations regarding differential DAS counting in the Gulf of Maine (GOM) and Southern New England (SNE) Differential DAS Areas through April 10, 2009.

A complete discussion of the temporary suspension of specific regulations and extension of the DAS lease application deadline appears in the preamble to the temporary rule and is not repeated here.

Because of an error in the amendatory instructions in the temporary rule, when the changes expired on April 10, 2009, the introductory paragraph of § 648.82(k)(3) was removed from the CFR, rather than reverting to the language in effect prior to the temporary rule. The regulatory text at § 648.82(k)(3) provides details about the DAS Leasing Program application process, including: Application signature requirements, expected application processing time, procedure for notifying applicants when an application is incomplete, the deadline for submission of an application, and clarification that vessel owners may submit multiple leases during a fishing year but individual DAS may only be leased once. This action reinstates the introductory paragraph at § 648.82(k)(3) as it read prior to the March 11, 2009, temporary rule.

A proposed rule for Secretarial interim action was published in the **Federal Register** on January 16, 2009 (74 FR 2959), that proposed management measures for the NE multispecies complex for FY 2009, while the New England Fishery Management Council (Council) completes Amendment 16 to the FMP. The proposed rule included a variety of management measures to reduce fishing mortality. A final interim rule implementing management measures for the NE multispecies fishery for FY 2009 was published on April 13, 2009 (69 FR 17063), and became effective May 1, 2009. The final interim rule solicited public comment through June 12, 2009. Included in the suite of management measures were modifications to the Closed Area I Hook Gear Haddock Special Access Program (SAP). As published, the final interim rule inadvertently repeated the regulatory text on Vessel Monitoring System declaration requirements for this SAP at § 648.85(b)(11)(iv)(D) in § 648.85(b)(11)(vi)(D). This rule reinstates the correct language for § 648.85(b)(11)(vi)(D) regarding the daily catch reporting requirements for non-sector vessels.

The final interim rule for FY 2009 also incorrectly stated the latitude/longitude coordinates for two of the stock areas defined for the Regular B DAS Program (Cape Cod (CC)/GOM yellowtail flounder stock area, and the SNE/Mid Atlantic (MA) yellowtail

flounder stock area). This rule corrects the pertinent coordinates.

The final interim rule for FY 2009 also incorrectly specified the GB cod incidental catch TAC and allocations of this TAC to the Special Management Programs. As explained in detail in the final interim rule, the GB cod TAC (5,501 mt) was developed based upon the Groundfish Assessment Review Meeting in 2008 (GARM III) information and the estimated fishing mortality rate resulting from measures implemented by the action. Because the GB cod TAC includes Canadian catch, the amount of anticipated Canadian catch must be subtracted from the total TAC to derive the net U.S. TAC. The net GB cod TAC available for the U.S. fishery is derived by subtracting the Canadian TAC from the total TAC (5,501 mt - 1,173 mt = 4,328 mt). In the final interim rule, the GB cod incidental catch TAC (and related allocations of this TAC) were incorrectly calculated based upon the total GB cod TAC (5,501 mt) instead of the U.S. portion of the TAC (4,328 mt). Therefore, this action specifies the GB cod TAC and associated TACs as follows, based upon 4,328 mt, resulting in slightly lower TACs than specified in the April 13, 2009, final interim rule.

TABLE 1—SPECIFICATION OF GB COD INCIDENTAL CATCH TACS

TAC	Calculation	Pre-vious TAC mt	Re-vised TAC mt
GB Cod Incidental Catch TAC	2% of GB Cod TAC	110.0	86.6
Regular B DAS Program GB Cod Incidental Catch TAC	70% of GB Cod Incidental Catch TAC	77.0	60.6
Closed Area I Hook Gear Haddock Special Access Program	14% of GB Cod Incidental Catch TAC	17.6	13.9
Eastern U.S./Canada Haddock Special Access Program	16% of GB Cod Incidental Catch TAC	15.4	12.1

Lastly, the interim rule implemented a prohibition on the use of low profile, tie-down gillnets in the Regular B DAS Program, but the regulations may not be sufficiently clear regarding the trip limits associated with the use of stand-

up gillnets, which are allowed to be used in the program. Framework Adjustment (FW) 42 to the FMP implemented gear performance incentives for the Regular B DAS Program (71 FR 62156; October 23, 2006) that applied to the haddock separator trawl, as well as other gears that may be authorized for Special Management Programs in the future. The FW 42 regulations neither prohibited nor explicitly allowed the use of gillnets in the Regular B DAS Program. Therefore, it was not sufficiently clear in the regulations whether the gear performance incentives applied to gillnet gear. Because the interim final rule for FY 2009 prohibited low profile gillnet gear, but did not clarify whether the gear performance incentives apply to stand-up gillnets, this rule modifies existing regulatory text to make it clear that vessels fishing in the Regular B DAS Program with stand-up gillnets are subject to the same possession limit restriction as trawl vessels fishing in the Regular B DAS Program. These possession limits are as follows: 500 lb (226.8 kg) of flounders (all species, combined), 500 lb (226.8 kg) of monkfish (whole weight), 500 lb (226.8 kg) of skates (whole weight), and zero lb of lobsters, ocean pout, SNE/MA winter flounder, and windowpane flounder (north). This is consistent with the use of regulatory incentives in the Regular B DAS Program and gear performance standards to promote fishing behavior and methods of gear use that minimize catch of stocks of concern.

#### Modification of Trip Limits

The proposed interim rule for FY 2009 noted above included a variety of management measures to reduce fishing mortality, including new trip limits. The proposed rule included less restrictive limits than the status quo for GB winter flounder and white hake (i.e., no trip limit and 2,000 lb (909.1 kg)/DAS up to 10,000 lb (4,545.5 kg)/trip, respectively). In contrast to the proposed rule, the April 13, 2009, final interim rule for FY 2009 retained the more restrictive, status quo trip limits for GB winter flounder and white hake (i.e., 5,000 lb (2,272.7 kg)/trip; and 1,000 lb (454.5 kg)/DAS up to 10,000 lb (4,545.5 kg)/trip, respectively).

On April 9, 2009, the Council passed a motion that the Council request that NMFS further consider the trip limits for GB winter flounder and white hake as they relate to the allowable fishing mortality rates (of the final interim rule), and adjust the such limits accordingly. Pursuant to the motion, on April 13,

2009, the Council sent a letter to NMFS making that request.

In response to the Council's letter of April 13, 2009, NMFS initiated an analysis of the pertinent trip limits and discovered that an error had been made in the analysis of the final rule measures (NMFS. *Environmental Assessment—Secretarial Interim Action to Implement Measures to Reduce Overfishing in the Northeast Multispecies Fishery Complex*, April 6, 2009). Although the preferred alternative included the more restrictive trip limits for these two stocks, the trip limit analysis completed in the Environmental Assessment (EA) for this alternative had mistakenly not been updated from the proposed rule, and therefore represented the analysis of the more liberal trip limit for white hake and removal of the GB winter flounder trip limit. The impacts of the more restrictive measures are represented by the impacts of the No Action Alternative.

The underlying analytical basis for the interim action and an explanation of the specific objectives for each stock were explained in the final interim rule, and are not repeated here. Based on estimated fishing mortality rates in calendar year 2008, fishing mortality can be increased on GB winter flounder and white hake and still achieve the respective goals of Fmsy and Frebuild. The analysis of the Preferred Alternative in the EA indicates that the management measures, including the trip limits implemented by this action, would result in a 13-percent reduction in fishing mortality for GB winter flounder and a 17-percent reduction in fishing mortality for white hake. The impacts of the less restrictive trip limits are consistent with the goals of the interim action. Therefore, in consideration of the Council's request and the impacts, this rule removes the trip limit for GB winter flounder, and implements a white hake trip limit of 2,000 lb (909.1 kg)/DAS up to 10,000 lb (4,545.5 kg)/trip.

#### Classification

NMFS has determined that the management measures implemented by this final interim rule are necessary for the conservation and management of the NE multispecies fishery, and are consistent with the Magnuson-Stevens Act and other applicable laws. This final interim rule has been determined to be not significant for the purposes of Executive Order (E.O.) 12866.

This final rule does not contain policies with federalism or "takings" implications as those terms are defined in E.O. 13132 and E.O. 12630, respectively.

An analysis of the impacts of the measures implemented by this rule on small entities were included in the Final Regulatory Flexibility Analysis of the interim final rule that implemented management measures for FY 2009 (74 FR 17030; April 13, 2009).

Pursuant to 5 U.S.C. 553(b)(B), the Assistant Administrator for Fisheries, NOAA (AA) finds it is unnecessary, impracticable, and contrary to the public interest to provide for additional prior notice and an opportunity for public comment. The substantive measure implemented by this action (modification of trip limits) was among measures proposed for FY 2009 in the proposed rule for the interim action and for which public comment was solicited during a 30-day period. The final interim action did not adopt the trip limit changes for these two stocks, and established a postpromulgation comment period of 60 days. The trip limit changes of this interim final rule are in response to a postpromulgation comment. Further public comment is unnecessary and impracticable, given the opportunity for public comment already provided for FY 2009 management measures, and the fact that further public comment would delay implementation and undermine the regulatory objective of providing for increased economic opportunity. Other changes implemented by this rule are minor, non-substantive changes that do not change operating practices in the fishery.

Pursuant to 5 U.S.C. 553(d)(1), the AA finds it is unnecessary, impracticable, and contrary to the public interest to provide for a 30-day delayed effectiveness, because this rule relieves a restriction. Specifically, the current regulations include a trip limit for GB winter flounder and a possession/trip limit for white hake. This interim final rule relieves restrictions by eliminating the GB winter flounder trip limit, and increasing the daily possession limit for white hake, and providing increased economic opportunity. A 30-day delay in the implementation of this rule would therefore delay the date vessels could take advantage of this economic opportunity. Such a delay would represent a 1-month reduction in fishing opportunity for these stocks and an economic loss, because fishing opportunities during the spring/summer portions of the fishing season are not equivalent to fishing opportunity later in the fishing season. Other changes implemented by this rule are minor, non-substantive changes that do not change operating practices in the fishery.

#### List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: July 1, 2009.

John Oliver,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

■ For the reasons stated in the preamble, 50 CFR part 648 is amended as follows:

#### PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

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

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

#### § 648.14 [Amended]

■ 2. In § 648.14, paragraph (k)(13)(ii)(H) is suspended.

■ 3. In § 648.82, paragraph (k)(3) introductory text is added to read as follows:

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

\* \* \* \* \*

(k) \* \* \*

(3) *Application to lease NE multispecies DAS.* To lease Category A DAS, the eligible Lessor and Lessee vessel must submit a completed application form obtained from the Regional Administrator. The application must be signed by both Lessor and Lessee and be submitted to the Regional Office at least 45 days before the date on which the applicants desire to have the leased DAS effective. The Regional Administrator will notify the applicants of any deficiency in the application pursuant to this section. Applications may be submitted at any time prior to the start of the fishing year or throughout the fishing year in question, up until the close of business on March 1. Eligible vessel owners may submit any number of lease applications throughout the application period, but any DAS may only be leased once during a fishing year.

\* \* \* \* \*

■ 4. In § 648.85, paragraphs (b)(10)(iv)(D), (b)(10)(v)(C) and (D), and (b)(11)(vi)(D) are revised to read as follows:

#### § 648.85 Special management programs.

\* \* \* \* \*

(b) \* \* \*

(10) \* \* \*

(iv) \* \* \*

(D) *Landing limits.* Unless otherwise specified in this paragraph (b)(10)(iv)(D), a NE multispecies vessel fishing in the Regular B DAS Program described in this paragraph (b)(10), and

fishing under a Regular B DAS, may not land more than 100 lb (45.5 kg) per DAS, or any part of a DAS, up to a maximum of 1,000 lb (454 kg) per trip of any of the following species/stocks from the areas specified in paragraph (b)(10)(v) of this section: Cod, pollock, white hake, witch flounder, GB winter flounder, GB yellowtail flounder, and southern windowpane flounder; and may not land more than 25 lb (11.3 kg) per DAS, or any part of a DAS, up to a maximum of 250 lb (113 kg) per trip of CC/GOM or SNE/MA yellowtail flounder. In addition, trawl vessels that are required to fish with a haddock separator trawl or Ruhle trawl, as specified under paragraph (b)(10)(iv)(j) of this section, gillnet gear, and other gear that may be required in order to reduce catches of stocks of concern as described under paragraph (b)(10)(iv)(j) of this section, are restricted to the following trip limits: 500 lb (227 kg) of all flatfish species (American plaice, witch flounder, winter flounder (GOM or GB), windowpane flounder (south), and yellowtail flounder), combined; 500 lb (227 kg) of monkfish (whole weight); 500 lb (227 kg) of skates (whole weight); and zero possession of lobsters, ocean pout, SNE/MA winter flounder, and windowpane flounder (north), unless otherwise restricted by § 648.94(b)(3).

\* \* \* \* \*

(v) \* \* \*

(C) *CC/GOM yellowtail flounder stock area.* The CC/GOM yellowtail flounder stock area for the purposes of the Regular B DAS Program is the area defined by straight lines connecting the following points in the order stated:

**CC/GOM YELLOWTAIL FLOUNDER STOCK AREA**

Point	N. Lat.	W. Long.
CCGOM1	43°00'	1
CCGOM2	43°00'	70°00'
CCGOM3	42°30'	70°00'
CCGOM4	42°30'	69°30'
CCGOM5	41°30'	69°30'
CCGOM6	41°30'	69°00'
CCGOM7	41°00'	69°00'
CCGOM8	41°00'	69°30'
CCGOM9	41°30'	70°00'
CCGOM10	2	70°00'
CCGOM11	42°00'	3
CCGOM12	42°00'	4
CCGOM13	3	70°00'

<sup>1</sup> Intersection with the New Hampshire coastline.

<sup>2</sup> Intersection of the south-facing shoreline of Cape Cod, MA.

<sup>3</sup> Intersection with the east-facing shoreline of Cape Cod, MA.

<sup>4</sup> Intersection with the west-facing shoreline of Massachusetts.

(D) *SNE/MA yellowtail flounder stock area.* The SNE/MA stock area for the purposes of the Regular B DAS Program is the area bounded on the north, east, and south by straight lines connecting the following points in the order stated:

**SNE/MA YELLOWTAIL FLOUNDER STOCK AREA**

Point	N. Lat.	W. Long.
SNEMA1	40°00'	74° 00'
SNEMA2	40°00'	72°00'
SNEMA3	40°30'	72°00'
SNEMA4	40°30'	69°30'
SNEMA5	41°00'	69°30'
SNEMA6	41°00'	69°00'
SNEMA7	41°30'	69°00'
SNEMA8	41°30'	70°00'
SNEMA9	41°00'	70°00'
SNEMA10	41°00'	70°30'
SNEMA11	41°30'	70°30'
SNEMA12	1	72°00'
SNEMA13	2	72°00'
SNEMA14	3	73°00'
SNEMA15	40°30'	73°00'
SNEMA16	40°30'	74°00'
SNEMA17	40°00'	74°00'

<sup>1</sup> South-facing shoreline of Connecticut.  
<sup>2</sup> North-facing shoreline of Long Island, New York.  
<sup>3</sup> South-facing shoreline of Long Island, New York.

\* \* \* \* \*

(11) \* \* \*

(vi) \* \* \*

(D) *Reporting requirements.* The owner or operator of a non-Sector vessel declared into the Closed Area I Hook Gear Haddock SAP must submit reports via VMS, in accordance with instructions to be provided by the Regional Administrator, for each day fished in the Closed Area I Hook Gear Haddock SAP Area. The reports must be submitted in 24-hr intervals for each day fished, beginning at 0000 hr local time and ending at 2400 hr local time. The reports must be submitted by 0900 hr local time of the day following fishing. The reports must include at least the following information: Total pounds of haddock, cod, yellowtail flounder, winter flounder, witch flounder, pollock, and white hake kept; total pounds of haddock, cod, yellowtail flounder, winter flounder, witch flounder, pollock, and white hake discarded; date fish were caught; and VTR serial number, as instructed by the Regional Administrator. Daily reporting must continue even if the vessel operator is required to exit the SAP as required under paragraph (b)(11)(iv)(F) of this section.

\* \* \* \* \*

■ 5. In § 648.86, paragraphs (e) and (j) are suspended, and paragraph (o) is added to read as follows:

**§ 648.86 NE Multispecies possession restrictions.**

\* \* \* \* \*

(o) *White hake.* Unless otherwise restricted under this part, a vessel issued NE multispecies DAS permit, a limited access Handgear A permit, an open access Handgear B permit, or a monkfish limited access permit and fishing under the monkfish Category C or D permit provisions may only land up to 2,000 lb (907.2 kg) of white hake per DAS, or any part of a DAS, up to 10,000 lb (4,536 kg) per trip.

[FR Doc. E9-16050 Filed 7-2-09; 4:15 pm]

BILLING CODE 3510-22-S

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 679**

[Docket No. 09100091344-9056-02]

RIN 0648-XQ18

**Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Western Regulatory Area of the Gulf of Alaska**

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

**ACTION:** Temporary rule; closure.

**SUMMARY:** NMFS is prohibiting directed fishing for Pacific ocean perch in the Western Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the 2009 total allowable catch (TAC) of Pacific ocean perch in the Western Regulatory Area of the GOA.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), July 4, 2009, through 2400 hrs, A.l.t., December 31, 2009.

**FOR FURTHER INFORMATION CONTACT:** Patty Britza, 907-586-7376.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2009 TAC of Pacific ocean perch in the Western Regulatory Area of the GOA is 3,713 metric tons (mt) as