

Dated: June 7, 2004.

**William T. Hogarth,**

*Assistant Administrator for Fisheries.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 040112010-4167-03; I.D. 122203A]

RIN 0648-AN17

#### Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Northeast (NE) Multispecies Fishery; Amendment 13 Regulatory Amendment

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

**ACTION:** Final rule, regulatory amendment.

**SUMMARY:** The final rule to implement Amendment 13 to the NE Multispecies Fishery Management Plan (Amendment 13) was published on April 27, 2004, and the majority of measures became effective on May 1, 2004. This final rule, regulatory amendment amends observer notification requirements of Amendment 13 to relieve a restriction. The required observer notification period for groundfish Days-at-Sea (DAS) vessels fishing in the U.S./Canada Management Area is reduced from 5 working days to 72 hours. The intent is to provide maximum flexibility to the fishing industry while still meeting the requirements and objectives of the management program.

**DATES:** Effective June 10, 2004.

**FOR FURTHER INFORMATION CONTACT:**

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**SUPPLEMENTARY INFORMATION:** The April 27, 2004, final rule implementing Amendment 13 (69 FR 22906) included an administrative measure for the purpose of selecting vessels for observer coverage. Vessel owners who choose to fish in either of the two U.S./Canada Management Areas, must provide notice to NMFS of the vessel name, contact name for coordination of observer deployment, telephone number for contact, date, time and port of departure at least 5 working days prior to the beginning of any trip that is declared

into the U.S./Canada Management Area. The goal of this requirement was to obtain a level of observer coverage on NE multispecies vessels fishing in the U.S./Canada Management Area that is consistent with the rest of the fishery (i.e., 10 percent for the 2004 fishing year). The objective is to provide notification to the NMFS Observer Program of planned trips, prior to the departure of the trip, so that the Observer Program has sufficient time to contact and deploy observers.

Although a notification period of 5 working days was determined to be optimal in terms of the operational requirements of the NMFS Observer Program, public comments received from numerous industry members have indicated that a shorter notification requirement would provide vessels greater flexibility to react to contingencies such as weather developments. Upon further consideration, NMFS has determined that a notification period of 72 hours represents a balance between the requirements of the Observer Program and the interests of the fishing industry, while still meeting the objectives of Amendment 13. Therefore, this final rule reduces the notification time for groundfish DAS vessels prior to departure of a trip into the U.S./Canada Management Area from 5 working days to 72 hours.

#### Classification

The Assistant Administrator for Fisheries, NOAA, finds good cause pursuant to 5 U.S.C 553(b)(B) to waive the requirement to provide prior notice and the opportunity for public comment on this regulatory amendment as such procedures are unnecessary and contrary to the public interest. The timing of the advance notification for the purposes of placing observers on fishing vessels is purely a NMFS administrative function. The objective of the advance notification is to allow the Observer Program sufficient time to contact and deploy observers. Reducing the notification period from five days to three days does not impact the fishery management measures that became effective on May 1, 2004. In addition, numerous industry members, the fishery management council and the State of Maine, requested a reduction to the notification period. Fisherman will benefit from a shorter notification period because it will provide vessels greater flexibility to react to contingencies such as weather developments, while still allowing sufficient time to place observers on vessels. Further, the AA has determined

that the 30-day delay in effectiveness requirement under 5 U.S.C. 553(d)(1) is not applicable because this action relieves a restriction as described in the **SUPPLEMENTARY INFORMATION** section of this rule.

This action is authorized by 50 CFR part 648 and is exempt from review under 12866. This action modifies a collection-of-information requirement for the purposes of the Paperwork Reduction Act. Although the costs associated with this reporting requirement do not change as a result of this final rule, the burden to the industry will be reduced because this rule relieves a restriction.

Because prior notice and an opportunity for public comment are not required for this rule by 5 U.S.C. 553, or any other applicable law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are not applicable.

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

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: June 7, 2004.

**Rebecca Lent,**

*Deputy Assistant Administrator for Regulatory Programs, 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.*

■ 2. In § 648.85, the last sentence in paragraph (a)(3)(ii) is revised to read as follows:

#### § 648.85 Special management programs.

(a) \* \* \*

(3) \* \* \*

(ii) \* \* \* For the purposes of selecting vessels for observer deployment, a vessel fishing in either of the U.S./Canada Management Areas specified in paragraph (a)(1) of this section, must provide notice to NMFS of the vessel name, contact name for coordination of observer deployment, telephone number for contact, date, time and port of departure, at least 72 hours prior to the beginning of any trip which it declares into the U.S./Canada Management Area as required under this paragraph (a)(3)(ii).

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