

**PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS**

■ 13. The authority citation for part 171 continues to read as follows:

**Authority:** 49 U.S.C. 5101–5128, 44701; 49 CFR 1.45 and 1.53; Pub. L. 101–410 section 4 (28 U.S.C. 2461 note); Pub. L. 104–134 section 31001.

■ 14. In § 171.8, the definition for “Special permit” is revised to read as follows:

**§ 171.8 Definitions and abbreviations.**

\* \* \* \* \*

*Special permit* means a document issued by the Associate Administrator, or other designated Department official, under the authority of 49 U.S.C. 5117 permitting a person to perform a function that is not otherwise permitted under subchapter A or C of this chapter, or other regulations issued under 49 U.S.C. 5101 *et seq.* (e.g., Federal Motor Carrier Safety routing requirements).

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Issued in Washington, DC, on December 29, 2010 under authority delegated in 49 CFR part 106.

**Cynthia L. Quarterman,**

*Administrator, Pipeline and Hazardous Materials Safety Administration.*

[FR Doc. 2010–33316 Filed 1–4–11; 8:45 am]

**BILLING CODE 4910–60–P**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 300**

**RIN 0648–XA125**

**Notification of U.S. Fish Quotas and an Effort Allocation in the Northwest Atlantic Fisheries Organization (NAFO) Regulatory Area**

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

**ACTION:** Final rule; notification of U.S. fish quotas.

**SUMMARY:** NMFS announces that fish quotas are available for harvest by U.S. fishermen in the Northwest Atlantic Fisheries Organization (NAFO) Regulatory Area. This action is necessary to make available to U.S. fishermen a fishing privilege on an equitable basis.

**DATES:** Effective January 1, 2011, through December 31, 2011. Expressions of interest regarding U.S. fish quota allocations for all species except

Division 3L shrimp and Division 3M redfish will be accepted throughout 2011. Expressions of interest regarding the U.S. 3L shrimp and 3M redfish quota allocations and the 3LNO yellowtail flounder to be transferred by Canada will be accepted through January 20, 2011.

**ADDRESSES:** Expressions of interest regarding U.S. quota allocations should be made in writing to Patrick E. Moran in the NMFS Office of International Affairs, at 1315 East-West Highway, Silver Spring, MD 20910 (phone: 301–713–2276, fax: 301–713–2313, e-mail: [Pat.Moran@noaa.gov](mailto:Pat.Moran@noaa.gov)).

Information relating to NAFO fish quotas, NAFO Conservation and Enforcement Measures, and the High Seas Fishing Compliance Act (HSFCA) Permit is available from Allison McHale, at the NMFS Northeast Regional Office at 55 Great Republic Drive, Gloucester, MA 01930 (phone: 978–281–9103, fax: 978–281–9135, e-mail: [allison.mchale@noaa.gov](mailto:allison.mchale@noaa.gov)) and from NAFO on the World Wide Web at <http://www.nafo.int>.

**FOR FURTHER INFORMATION CONTACT:**

Patrick E. Moran, 301–713–2276.

**SUPPLEMENTARY INFORMATION:**

**Background**

NAFO has established and maintains conservation measures in its Regulatory Area that include one effort limitation fishery as well as fisheries with total allowable catches (TACs) and member nation quota allocations. The principal species managed are cod, flounder, redfish, American plaice, halibut, hake, capelin, shrimp, skates and squid. At the 2010 NAFO Annual Meeting, the United States received fish quota allocations for three NAFO stocks to be fished during 2011. Please note that NAFO has eliminated the Division 3M shrimp effort allocation for 2011 due to conservation concerns. Fishing opportunities for this stock will be re-opened when the NAFO Scientific Council advice estimates that the stock is showing signs of recovery.

The species, location, and allocation (in metric tons) of 2011 U.S. fishing opportunities, as found in Annexes I.A, I.B, and I.C of the 2011 NAFO Conservation and Enforcement Measures, are as follows:

(1) Redfish .....	NAFO Division 3M.	69 mt.
(2) Squid ( <i>Illex</i> )	NAFO Subareas 3 & 4.	453 mt.
(3) Shrimp .....	NAFO Division 3L.	334 mt.

Additionally, the United States may be transferred up to 1,000 mt of 3LNO

yellowtail flounder from Canada’s quota allocation for express use by U.S. vessels if the United States requests a transfer before January 1 of 2011, or any succeeding year through 2017. If such a request is made, an additional 500 mt of 3LNO yellowtail flounder could be made available on the condition that the United States transfers its 3L shrimp allocation to Canada or through some other arrangement. Participants in this fishery will be restricted to an overall bycatch harvest limit for American plaice equal to 15% of the total yellowtail fishery.

Further, U.S. vessels may be authorized to fish any available portion of the 385 mt allocation of oceanic redfish in NAFO Subarea 2 and Divisions 1F and 3K available to NAFO members that are not also members of the Northeast Atlantic Fisheries Commission. Fishing opportunities may also be authorized for U.S. fishermen in the “Others” category for: Division 3LNO yellowtail flounder (85 mt); Division 3NO white hake (353 mt); Division 3LNO skates (444 mt); Division 3M cod (40 mt), 3LN redfish (35 mt) and Division 3O redfish (100 mt). Procedures for obtaining NMFS authorization are specified below.

**U.S. Fish Quota Allocations**

Expressions of interest to fish for any or all of the 2011 U.S. fish quota allocations, including the up to 1,500 mt of yellowtail flounder to be transferred by Canada under the circumstances described above, and “Others” category allocations in NAFO will be considered from U.S. vessels in possession of, or eligible for, a valid HSFCA permit, which is available from the NMFS Northeast Regional Office (*see ADDRESSES*). All expressions of interest should be directed in writing to Patrick E. Moran (*see ADDRESSES*). Letters of interest from U.S. vessel owners should include the name, registration, and home port of the applicant vessel as required by NAFO in advance of fishing operations. In addition, any available information on intended target species and dates of fishing operations should be included. To ensure equitable access by U.S. vessel owners, NMFS may promulgate regulations designed to choose one or more U.S. applicants from among expressions of interest.

Note that vessels issued valid HSFCA permits under 50 CFR part 300 are exempt from multispecies permit, mesh size, effort-control, and possession limit restrictions, specified in 50 CFR 648.4, 648.80, 648.82 and 648.86, respectively, while transiting the U.S. exclusive economic zone (EEZ) with multispecies on board the vessel, or landing

multispecies in U.S. ports that were caught while fishing in the NAFO Regulatory Area, provided:

(1) The vessel operator has a letter of authorization issued by the Regional Administrator on board the vessel;

(2) For the duration of the trip, the vessel fishes, except for transiting purposes, exclusively in the NAFO Regulatory Area and does not harvest fish in, or possess fish harvested in, or from, the U.S. EEZ;

(3) When transiting the U.S. EEZ, all gear is properly stowed in accordance with one of the applicable methods specified in 50 CFR 648.23(b); and

(4) The vessel operator complies with the HSFCA permit and all NAFO conservation and enforcement measures while fishing in the NAFO Regulatory Area.

#### **NAFO Conservation and Management Measures**

Relevant NAFO Conservation and Enforcement Measures include, but are not limited to, maintenance of a fishing logbook with NAFO-designated entries; adherence to NAFO hail system requirements; presence of an on-board observer; deployment of a functioning, autonomous vessel monitoring system; and adherence to all relevant minimum size, gear, bycatch, and other requirements. Further details regarding these requirements are available from the NMFS Northeast Regional Office, and can also be found in the current NAFO Conservation and Enforcement Measures on the Internet (*see ADDRESSES*).

#### **Transfer and Chartering of U.S. Quota Allocations**

In the event that no adequate expressions of interest in harvesting the U.S. portion of the 2011 NAFO Division 3M redfish quota allocation are made on behalf of U.S. vessels, expressions of interest will be considered from U.S. fishing interests intending to make use of vessels of other NAFO Parties through a transfer of quota allocated to the United States. Under NAFO rules in effect for 2011, the United States may transfer fishing possibilities with the consent of the receiving Contracting Party and with prior notification to the NAFO Executive Secretary. Expressions of interest from U.S. fishing interests intending to make use of vessels from another NAFO Contracting Party through a transfer of quota allocated to the United States should include a letter of consent from the vessel's flag state. In addition, expressions of interest for transfers should be accompanied by a detailed description of anticipated benefits to the United States. Such

benefits might include, but are not limited to, the use of U.S. processing facilities/personnel; the use of U.S. fishing personnel; other specific positive effects on U.S. employment; evidence that fishing by the recipient NAFO Contracting Party actually would take place; and any available documentation of the physical characteristics and economics of the fishery for future use by the U.S. fishing industry.

In the event that no adequate expressions of interest in harvesting the U.S. portion of the 2011 NAFO Division 3L shrimp quota allocation are made on behalf of U.S. vessels, expressions of interest will be considered from U.S. fishing interests intending to make use of vessels of other NAFO Parties under chartering arrangements to fish the 2011 U.S. quota allocation for 3L shrimp. Under NAFO rules in effect through 2011, a vessel registered to another NAFO Contracting Party may be chartered to fish the U.S. shrimp quota provided that written consent for the charter is obtained from the vessel's flag state and the U.S. allocation is transferred to that flag state. NAFO Parties must be notified of such a chartering operation through a mail notification process.

A NAFO Contracting Party wishing to enter into a chartering arrangement with the United States must be in full current compliance with the requirements outlined in the NAFO Convention and Conservation and Enforcement Measures including, but not limited to, submission of the following reports to the NAFO Executive Secretary: provisional monthly catches within 30 days following the calendar month in which the catches were made; provisional daily catches of shrimp taken from Division 3L; observer reports within 30 days following the completion of a fishing trip; and an annual statement of actions taken in order to comply with the NAFO Convention; and notification to NMFS of the termination of the charter fishing activities. Furthermore, the United States may also consider a Contracting Party's previous compliance with NAFO bycatch, reporting and other provisions, as outlined in the NAFO Conservation and Enforcement Measures, before entering into a chartering arrangement.

Expressions of interest from U.S. fishing interests intending to make use of vessels from another NAFO Contracting Party under chartering arrangements should include information required by NAFO regarding the proposed chartering operation, including: the name, registration and flag of the intended

vessel; a copy of the charter; the fishing opportunities granted; a letter of consent from the vessel's flag state; the date from which the vessel is authorized to commence fishing on these opportunities; and the duration of the charter (not to exceed six months). More details on NAFO requirements for chartering operations are available from NMFS (*see ADDRESSES*). In addition, expressions of interest for chartering operations should be accompanied by a detailed description of anticipated benefits to the United States. Such benefits might include, but are not limited to, the use of U.S. processing facilities/personnel; the use of U.S. fishing personnel; other specific positive effects on U.S. employment; evidence that fishing by the chartered vessel actually would take place; and documentation of the physical characteristics and economics of the fishery for future use by the U.S. fishing industry.

In the event that multiple expressions of interest are made by U.S. fishing interests proposing the transfer of Division 3L redfish quota allocated to the United States, or chartering operations to fish Division 3L shrimp quota allocated to the United States, the information submitted regarding benefits to the United States will be used in making a selection. In the event that applications by U.S. fishing interests proposing transfer or the use of chartering operations are considered, all applicants will be made aware of the allocation decision as soon as possible. Once the allocation has been awarded, NMFS will immediately take appropriate steps to notify NAFO to take appropriate action.

After reviewing all requests for allocations submitted, NMFS may decide not to grant any allocations if it is determined that no requests meet the criteria described in this notice. All individuals/companies submitting expressions of interest to NMFS will be contacted if an allocation has been awarded. Please note that if the U.S. portion of any 2011 NAFO quota allocation, or the 3LNO yellowtail flounder transferred from Canada is awarded to a U.S. vessel or a specified chartering operation, it may not be transferred without the express, written consent of NMFS.

Dated: December 30, 2010.

**Rebecca Lent,**

*Director, Office of International Affairs,  
National Marine Fisheries Service.*

[FR Doc. 2010-33312 Filed 1-4-11; 8:45 am]

**BILLING CODE 3510-22-P**