

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

[Docket No. 020409080-2155-04; 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: Proposed interim rule; request for comments.

SUMMARY: NMFS proposes an interim rule under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) to implement additional interim measures intended to reduce overfishing on species managed under the Northeast Multispecies Fishery Management Plan (FMP). This rule proposes 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 fishery. This rule also proposes to continue 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 (groundfish) fishery into compliance with the Settlement Agreement Among Certain Parties (Settlement Agreement) and the Court's Remedial Order.

DATES: Comments on this proposed interim rule must be received no later than 5 p.m., local time, on July 16, 2002.

ADDRESSES: Written comments on the proposed rule should be sent to Patricia A. Kurkul, Regional Administrator, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope, "Comments on the August Proposed Interim Rule for Groundfish." Comments also may be sent via facsimile (fax) to (978) 281-9135. Comments will not be accepted if submitted via e-mail or Internet.

Written comments regarding the approved collection-of-information requirements should be sent to the Regional Administrator and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (Attn: NOAA Desk Officer).

Copies of the rule, including the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) are available upon request from the Regional Administrator. The EA/RIR/IRFA 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

SUPPLEMENTARY INFORMATION:**Background**

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 NMFS (*Conservation Law Foundation, et al., v. Evans*, Case No. 00CV01134, (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 Fishery Conservation and Management Act (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 preamble to the interim rules published by NMFS on April 29, 2002 (67 FR 21140), May 6, 2002 (67 FR 30331), and June 5, 2002 (67 FR 38608), 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 NMFS, 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, NMFS, 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 NMFS' 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 fishermen or endangering the future of their communities and their way of life." Remedial Order, p.13. Further, the Court ordered that NMFS 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, NMFS 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, NMFS, 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.

In response to the May 23, 2002, Court Order, on May 31, 2002, NMFS 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. This proposed interim rule would implement 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 NMFS and the New England Fishery Management Council (Council) and is intended to be implemented by August 22, 2003. This proposed rule is being proposed as 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.

Management Measures

All measures that were in effect prior to May 1, 2002, and not amended by this proposed interim rule, remain in effect as of August 1, 2002. These measures, therefore, are not discussed specifically in the description that follows. The following management measures are proposed to be implemented on August 1, 2002. These measures are designed to reduce overfishing on all “regulated species” managed under the FMP.

New Regulated Mesh Areas

This interim action would redefine and divide 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 would also be redefined. The SNE RMA would be defined 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 would be defined as the area west of the SNE RMA. Specific management measures would 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, would remain in effect and would be referred to as Exemption Areas.

DAS Freeze

This measure proposes to establish 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 would 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 would result in a net amount of DAS less than 10, the vessel would be allocated a used DAS baseline of 10 DAS. For the majority of limited access vessels, the used DAS

baseline would be determined by the number of DAS called-in to the NE multispecies DAS program during the May 1, 1996, through April 30, 2001, period. For vessels fishing with a NMFS-approved Vessel Monitoring System (VMS), NE multispecies DAS for each trip would be determined based on when the first hourly location signal was received showing that the vessel crossed the VMS Demarcation Line leaving port, until the first hourly location signal was received showing that the vessel crossed the VMS Demarcation Line upon its return to port, unless the vessel’s authorized representative declared the vessel out of the NE multispecies fishery for a specific time period by notifying the Regional Administrator, Northeast Regional Office, NMFS (RA) through the VMS prior to the vessel leaving port. Because some NE multispecies limited access vessels that are currently required to fish under the NE multispecies DAS program were exempt from the DAS requirements prior to July 1, 1996, the implementation date of Amendment 7 (61 FR 2270, May 31, 1996); *i.e.*, vessels in the 45-ft (13.7-m)-and-less, Hook-Gear and Gillnet permit categories; NE multispecies DAS for these vessels during the period May 1, 1996, through June 30, 1996, would be determined based on information derived from the Vessel Trip Reports (VTRs), provided that the VTRs were submitted to NMFS prior to April 9, 2002. The procedure for determining a vessel’s used DAS baseline would be the same for vessels that currently possess a Confirmation of Permit History. Vessels that have a valid NE multispecies limited access Small Vessel category permit (vessels 30 ft (9.1 m) or less in length overall) would remain exempt from the NE multispecies DAS restrictions.

As noted above, the used DAS baseline would be calculated based upon historic DAS use associated with the currently valid limited access permit. The DAS associated with a particular permit history may not equal the DAS associated with a particular vessel because vessels may be replaced and the permits transferred from one vessel to another. NMFS will notify vessel owners in writing of their NE multispecies used DAS baselines. A vessel’s used DAS baseline may be appealed to the Regional Administrator by August 31, 2002. The request to appeal 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 on appeal shall be determined solely on the basis of written information submitted, unless the Regional Administrator specifies otherwise. The Regional Administrator's decision on appeal is the final decision of the Department of Commerce.

DAS Effort Reduction

This measure would reduce the vessel's baseline level of used DAS, calculated as described above, by 20 percent. This measure would be 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, would be deducted from that vessel's total allocated DAS. That is, each vessel's DAS allocation for August 1, 2002, through April 30, 2003, would 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 are 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 would 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, would be counted as actual time.

Vessels for which the amount of NE multispecies DAS available for use as of August 1, 2002, would be less than or equal to the DAS fished during the May through July 2002, period, the vessel would be 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).

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) must run both their monkfish DAS clock and the NE multispecies DAS clock concurrently when fishing under a monkfish DAS. Limited access monkfish permit holders are allocated 40 monkfish DAS (under the monkfish FMP). Under the proposed measure, vessels for which the NE multispecies DAS reduction would result in the vessel having more monkfish DAS allocated than NE

multispecies DAS, such vessels could still fish under a monkfish DAS when NE multispecies DAS are no longer available, but would 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. For example, if a monkfish category D vessel's NE multispecies DAS allocation were 30, and the vessel fished 30 monkfish DAS, 30 NE multispecies DAS would also be used. However, after all 30 NE multispecies DAS were used, the vessel could utilize its remaining 10 monkfish DAS to fish on monkfish, without a NE 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.

DAS Carry-Over From Fishing Year 2001

Under measures promulgated through a previous NE multispecies interim final rule (67 FR 21140, April 29, 2002), effective May 1, 2002, through July 31, 2002, a vessel is allowed to use no more than 25 percent of its annual NE multispecies DAS allocation during May-July, 2002. However, because carry-over DAS are not considered part of a vessel's allocated DAS, carry-over DAS from the previous fishing year are not allowed to be used when determining the 25-percent of DAS that can be used during the May-July, 2002, period; consequently, carry-over DAS are not allowed to be fished during that period. Under this proposed interim rule, vessels would 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 would be in addition to the vessel's 2002 NE multispecies DAS allocation and would, 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. For example, if a vessel's used DAS baseline is 50 DAS and it has carry-over DAS from fishing year 2001, its total DAS for the fishing year would equal: 50 DAS – 20 percent of used DAS baseline (10 DAS)—DAS fished during May-July 2002 + carry-over DAS from fishing year 2001. If the vessel fished 22 DAS during May-July and had 10 carry-over DAS from fishing year 2001, under this example the vessel would be allowed to fish up to 28 DAS during the period August 1, 2002,

through April 30, 2003 (50 DAS – 10 DAS – 22 DAS + 10 DAS = 28 DAS).

Freeze on Issuance of New Handgear Permits

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

Prohibition on Front-Loading the DAS Clock

NE multispecies regulations prior to May 1, 2002, require that, at the end of a vessel's trip, upon its return to port, the vessel owner or owner's representative must call NMFS to notify NMFS that the trip has ended, thus ending a DAS. However, there is no restriction on when a vessel can start its DAS clock. Consequently, some vessel owners start their DAS clock well in advance of the actual departure of the vessel, a practice known as "front-loading." Front-loading is prohibited through July 31, 2002, as a result of the interim rule published April 29, 2002; this proposed interim rule would continue that prohibition for the duration of this action.

Under this proposed measure, a vessel owner or authorized representative would 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 DAS would begin once the call has been received and a confirmation number is given. This measure would apply in all management areas.

Closed Area Additions/Modifications

This measure would implement additional seasonal and year-round area closures. Specifically, this action proposes to continue, in its current configuration, the closure of the Western Gulf of Maine (WGOM) Area Closure. This action would also expand Rolling Closure Area III by closing area blocks 124 and 125 for the month of May, 2003, and expand Rolling Closure Area IV by closing area blocks 132 and 133 for the month of June, 2003. This action would further expand the Bank 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, would be closed for the duration of the interim final rule.

Exemptions to the current GOM rolling closure areas would remain the

same for the expanded rolling closures and the expanded GB Seasonal Closure Area that would be implemented by this proposed interim rule. All of the current exemptions are proposed to 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 would open 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 would 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 GOM, GB, and Mid-Atlantic RMAs

Under this proposed interim rule, vessels fishing with otter trawl gear, and fishing any part of a NE multispecies DAS in the GOM, GB, or Mid-Atlantic RMAs, would be required to fish with a minimum 6.5-inch (16.5-cm) diamond or square mesh codend. This requirement applies only to the codend of the net; the minimum mesh-size for the remaining portion of the net would remain unchanged, i.e., 6.0-inch (15.2-cm) diamond mesh or 6.5-inch (16.5-cm) square mesh, or any combination thereof, throughout the remaining portion of the net. Trawl vessels that currently fish with 6.5-inch (16.5-cm) square mesh throughout the entire net would not be subject to mesh changes under the proposed interim rule. For vessels fishing with a 6.5-inch (16.5-cm) diamond mesh codend, or for vessels fishing with a 6.5-inch (16.5-cm) square mesh codend and a combination of square mesh and diamond mesh throughout the remaining portions of the net, the codend would be defined as follows: 25 meshes for diamond mesh, or 50 bars in the case of square mesh, from the terminus of the net for vessels 45 ft (13.7 m) in length and less; and 50 meshes for diamond mesh, or 100 bars in the case of square mesh, from the terminus of the net for vessels greater than 45 ft (13.7 m) in length.

Trawl Vessels When Fishing in the SNE RMA

Under this proposed interim rule, when fishing any part of a NE multispecies DAS in the SNE RMA, otter trawl vessels would be 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 would apply only to the codend of the net; the minimum mesh-size for the remaining portion of the net would remain unchanged, i.e., 6.0-inch (15.2-cm) diamond mesh or 6.5-inch (16.5-cm) square mesh, or any combination thereof, throughout the remaining portion of the net. As in the GOM and GB RMAs, trawl vessels that currently fish with 6.5-inch (16.5-cm) square mesh throughout the entire net would not be subject to mesh changes under this rule. For vessels fishing with a 7.0-inch (17.8-cm) diamond mesh codend, or for vessels fishing with a 6.5-inch (16.5-cm) square mesh codend and a combination of square mesh and diamond mesh throughout the remaining portions of the net, the codend would be defined as described above under the GOM and GB trawl mesh restrictions.

Gillnet Vessels When Fishing in the GOM RMA

Under this proposed interim rule, limited access NE multispecies vessels that fish under a NE multispecies DAS with gillnet gear in the GOM RMA at any time throughout the fishing year would be required to declare into the Day or Trip gillnet category. Vessels that obtain an annual designation as a Trip gillnet vessel, when fishing in the GOM RMA during any part of a trip under a NE multispecies DAS, would be required to fish with nets with a minimum of 6.5-inch (16.5-cm) mesh and would be restricted to 150 nets, with one tag fixed to each net. Multispecies vessels that obtain an annual designation as a Day gillnet vessel would be allowed to fish up to 100 nets, provided that, when fishing any part of a trip under a NE multispecies DAS in the GOM RMA, the vessel complies with the following specifications: When fishing with flatfish nets, vessels could fish no more than 100 nets, with a minimum mesh size of 7 inches (17.8 cm), with one tag affixed to each net; and when fishing with roundfish nets, vessels would be restricted to fishing during July through February of each fishing year only, and would be allowed to fish no more than 50 nets with a minimum mesh size of 6.5 inches (16.5 cm) and with two tags affixed to each net. Any tag not affixed

to a net would have to be retained on the vessel and be immediately available for inspection.

Gillnet Vessels When Fishing in the GB RMA

Under this proposed interim 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 would be 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, would be required to fish with nets with a minimum of 6.5-inch (16.5-cm) mesh and would be restricted from fishing more than 50 nets, with two tags fixed to each net.

Gillnet Vessels When Fishing in the SNE RMA

Under this proposed interim 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 would be 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, would be required to fish with nets with a minimum of 6.5-inch (16.5-cm) mesh and would be restricted from fishing more than 75 nets, with two tags fixed to each net.

Gillnet Vessels When Fishing in the Mid-Atlantic RMA

The minimum mesh size restrictions and number of nets required for gillnet vessels when fishing in the Mid-Atlantic RMA under a NE multispecies DAS would remain unchanged. That is, vessels would be allowed to continue to fish up to 160 nets. This net restriction is different than the net restriction of 150 nets, as in the Settlement Agreement and Court order, for vessels fishing under the monkfish DAS program.

Gillnet Vessels When Fishing Under a Monkfish DAS

Under this proposed interim 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 would be 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 would be required to affix one tag to each net.

Category A and B monkfish vessels would be unaffected by the proposed measures.

Large-Mesh Vessel Permit Categories

Under this proposed interim rule, vessels that have a valid limited access NE multispecies Large Mesh Individual DAS category or a Large Mesh Fleet DAS category permit would be 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 would be 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 Mid-Atlantic RMA would be 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.

Hook-Gear Vessels

Under this proposed interim rule, vessels that have a valid NE multispecies limited access Hook-Gear permit would be prohibited from using de-hookers (crucifiers) with less than 6-inch (15.2-cm) spacing between the fairlead rollers. Hook-Gear permitted vessels that are fishing any part of a NE multispecies DAS trip in the GOM, GB

or SNE RMAs would be required to use 12/0 or larger circle hooks. In addition, Hook-Gear vessels that are fishing any part of a DAS trip in the GOM, GB and SNE RMAs would be subject to a maximum number of rigged hooks on board the vessel. Specifically, vessels fishing in the GOM or SNE RMAs would be restricted from possessing more than 2,000 rigged hooks, and vessels fishing in the GB RMA would be restricted 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.

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Table 1. - Gear Restrictions by Regulated Mesh Areas

	GOM	GB	SNE	Mid-Atl
MINIMUM MESH SIZE RESTRICTIONS FOR GILLNET GEAR				
NE Multispecies Day Gillnet Category*	July-February only: <u>Roundfish nets</u> 6.5" (16.5 cm) mesh; 50-net allowance; 2 tags/net	<u>All nets</u> 6.5" (16.5 cm) mesh; 50-net allowance; 2 tags/net	<u>All nets</u> 6.5" (16.5 cm) mesh; 75-net allowance; 2 tags/net	<u>Roundfish nets</u> 5.5" (14.0 cm) diamond or 6.0" (15.2 cm) square mesh; 80-net allowance; 2 tags/net
	Year-round: <u>Flatfish nets</u> 7.0" (17.8 cm) mesh; 100-net allowance; 1 tag/net			<u>Flatfish nets</u> 5.5" (14.0 cm) diamond or 6.0" (15.2 cm) square mesh; 160-net allowance 1 tag/net;
NE Multispecies Trip Gillnet Category*	<u>All nets</u> 6.5" (16.5 cm) mesh; 150-net allowance; 1 tag/net	<u>All nets</u> 6.5" (16.5 cm) mesh; 50-net allowance; 2 tags/net	<u>All nets</u> 6.5" (16.5 cm) mesh; 75-net allowance; 2 tags/net	<u>All gillnet gear</u> 5.5" (14.0 cm) diamond or 6.0" (15.2 cm) square mesh; No net limit; no tag requirement
Monkfish Vessels**	10" (25.4 cm) mesh/150-net allowance			
	1 tag/net			
MINIMUM MESH SIZE RESTRICTIONS FOR TRAWL GEAR				
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
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)
MINIMUM NUMBER OF HOOKS AND SIZE RESTRICTIONS FOR HOOK-GEAR				
Hook-Gear Category	2,000 hooks	3,600 hooks	2,000 hooks	4,500 hooks (no change)
	No less than 6" (15.2 cm) spacing allowed between the fairlead rollers			
	12/0 circle hooks required			N/A

* When fishing under a NE multispecies DAS

** Monkfish category C and D vessels when fishing under a monkfish DAS

BILLING CODE 3510-22-C

Cod Minimum Fish Size (Commercial Vessels)

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

NE Multispecies Possession Restrictions Yellowtail Flounder

This proposed interim rule would require enrollment in one of two exemption programs for any possession of yellowtail flounder and implement 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 would be 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 RMA north of 40°00' N. lat. In addition, during the period June 1 through February 28, all vessels

would be 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 RMA north of 40°00' N. lat. Vessels fishing for yellowtail flounder in the SNE RMA north of 40°00' N. lat. would be allowed to possess and land up to the seasonal yellowtail allowable limits, provided the vessel does not fish south of 40°00' N. lat. and has on board a SNE yellowtail flounder exemption certificate issued by the RA. Under this proposed interim rule, all vessels would be 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 would not be 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 exemption certificate issued by the RA. Vessels exempt from the yellowtail possession limit requirements could 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 proposed interim action, the cod, haddock and yellowtail flounder possession limit for vessels that have been issued a valid open access Handgear permit would be reduced to 200 lb (90.7 kg), combined, per trip.

GB Cod Trip Limit Modification

This action would modify how the DAS clock would accrue for those vessels fishing in the GB RMA and harvesting GB cod. The GB cod trip limit would be maintained at 2,000 lb

(907.2 kg) per DAS, up to a maximum possession limit of 20,000 lb (9,071.8 kg) per trip. A vessel subject to this landing limit restriction would 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. For example, 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 (1,814.8 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. This modification is consistent with the GOM cod trip limit provisions in the NE multispecies regulations. A vessel that would be required to remain in port for the time that it must run its DAS clock could transit to another port during that time, provided the operator notifies the Regional Administrator according to provisions specified in § 648.86(b)(3).

GOM Cod

This action would increase 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 would remain 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, would be 23 inches (58.4 cm) total length.

This action would implement 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 would be 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 could be cod. This action would further restrict 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 would be allowed to possess no more than 10 cod or haddock combined, no more than 5 of which could be cod. Cod and haddock harvested by recreational vessels with more than one person aboard could be pooled in one or more containers. Compliance with the possession limit would 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 proposed interim rule would require that the vessel possess on board a letter of authorization (LOA) issued by the RA. This LOA would be 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 could 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 ¹	Bag limit (combined)	GOM closure exemption authorization
Charter/party not on a DAS	23	<i>April–November:</i> 10 cod/haddock ² <i>December–March:</i> 10 cod/haddock, no more than 5 which can be cod ²	A minimum of 3 months, or duration of closure.
Private Recreational	23	<i>Areas outside of GOM RMA:</i> 10 cod/haddock <i>GOM RMA:</i> 10 cod/haddock, no more than 5 which can be cod, Dec.–Mar.	N/A

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

Observer Coverage

NMFS has been ordered by the Court, by August 1, 2002, to expand its observer coverage in the NE multispecies fishery by providing a minimum of 5-percent coverage, 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, if appropriate.

Classification

By the terms of the Court order which implemented the Settlement Agreement final rulemaking of this action is required to be made effective no later than August 1, 2002. This rule has been determined to be significant for purposes of Executive Order 12866.

NMFS prepared an Initial Regulatory Flexibility Analysis (IRFA) that describes the economic impact this proposed rule, if adopted, would have on small entities. 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 IRFA. A summary of the analysis follows.

The analysis considered three alternatives: The Preferred Alternative, the No Action Alternative, and a Hard TAC 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.

The proposed action (Preferred Alternative) 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 Preferred Alternative measures would 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 would 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 would experience at least a 16-percent loss in gross annual fishing revenues. In contrast, fishing revenues would 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 would be most affected. Vessels positively affected would be gillnet or hook vessels, due to the proposed 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 proposed 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 the proposed 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. Therefore, NMFS is requesting comments on this issue during the comment period on this proposed interim rule. 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, is probably an overestimation, due to limitations in the data. It is likely that the number of vessels that could not break even is substantially less than 213.

The proposed reduction in the trip limit for the open access hand gear permit category would 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 would 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 would result from the proposed changes in mesh size requirements.

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

Gear	Number of Vessels analyzed	Average vessel cost
Trawl (replace cod end)	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 proposed 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 may be alternative sets of management measures to those contained in this proposed rule that would accomplish the objectives, this proposed rule represents the measures agreed to in the Settlement Agreement that was negotiated by numerous interested parties.

Relative to the Preferred Alternative, the No Action Alternative would mitigate most of the adverse economic impacts associated with the Preferred Alternative. In general, gross fishing incomes would increase, 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 result in unacceptably high increases in fishing mortality rates that could compromise the rebuilding of several GOM stocks, GOM cod in particular. For this reason, the No Action alternative would not meet the regulatory objectives of this action.

Relative to the Preferred Alternative, the Hard TAC Alternative would impact more significantly 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 be very severe, if not irreparable. Option 1 would severely impact (essentially do away with) the NE multispecies fishery on GB and southern New England in the near term, and would largely prohibit the monkfish, sea scallop, and spiny dogfish fisheries from operating in that area, as well. Option 2 would prohibit hook and roundfish gillnet gear from GB and allow some low level of trawl fishing, but with a bycatch trigger for GB cod that would likely close the fishery

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

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 proposed 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.

Because the terms of the Settlement Agreement accepted by the Court require a final rule to be made effective no later than August 1, 2002, the opportunity for public comment on this proposed rule is abbreviated to 15 days. A longer comment period would likely prevent NMFS from meeting the August 1, 2002, deadline. In addition, the proposed measures were developed in cooperation with and after input from one of the conservation group plaintiffs and all of the intervenors who represent four New England States and a sizable portion of the fishing industry.

This proposed interim 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; 5 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 that have been submitted to OMB for approval. A response time of 2 minutes has been estimated for requests for entry onto one of two exemption programs for vessel owners choosing to fish for yellowtail flounder in the SNE, 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.

NMFS prepared a draft Environmental Assessment (EA) for this interim action. A copy of the EA is available from NMFS (see ADDRESSES).

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: June 24, 2002.

William T. Hogarth,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons stated in the preamble, 50 CFR part 648 is proposed to be amended as follows: 1

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. 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.

(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.

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

5. In § 648.14, paragraphs (a)(35), (a)(42), (a)(43), (a)(45), (a)(47), (a)(52), (a)(102), (a)(112), (a)(116), (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 (5), and (c)(32), (c)(33) and (c)(34) 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, 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) * * *

(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) Possess in, or harvest from the EEZ in the Southern New England Regulated Mesh Area northward of 40°00' yellowtail flounder in excess of the seasonal possession or trip limits under § 648.86(h)(2).

(5) Fail to comply with the restrictions described in § 648.86(h)(1), if fishing for, possessing or landing yellowtail flounder in the SNE Regulated Mesh Area north of 40°0' N. lat.

(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), and (b)(2)(v), if the vessel has been issued a limited access multispecies hook-gear permit and fishes in areas specified under § 648.80(a), and (b).

* * * * *

(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).

* * * * *

(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) In the vessel has been fishing with gillnets under either the day or trip category, fail to remove the nets from the water as described under § 648.82(k)(3).

(33) 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).

(34) 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)(ii), (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	(1)	(1)

Point	N. Lat.	W. Long.	Approximate loran C bearings
CI13	42°22'	67°20'	(The U.S.-Canada Maritime Boundary)
SNE1	40°24'	65°43'	(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	(1)	70°00'
G11	40°50'	70°00'
NL1	40°50'	69°40'
NL2	40°18.7'	69°00'
NL3	40°22.7'	69°00'
	(2)	69°00'

¹ South facing shoreline of Cape Cod.
² 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

Point	N. Lat.	W. Long.
G2	43°58'	67°22'
G3	42°53.1'	67°44.4'
G4	42°31'	67°28.1'
CI13	42°22'	² 67°20'

¹ The intersection of the shoreline and the U.S.-Canada Maritime Boundary.
² 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'	² 67°20'
G6	42°20'	67°20'
G7	42°20'	69°30'
G8	42°00'	69°30'
G9	42°00'	(1)

¹ The intersection of the Cape Cod, MA, coastline and 42°00' N. lat.
² The U.S.-Canada Maritime Boundary.

(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;

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

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) × 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.* 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) × 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) × 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) × 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 Hook-gear permit and fishing under a NE 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 and are prohibited from fishing, setting, or hauling back, per day, or possessing on board the vessel, more than 2,000 rigged hooks. All 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.

(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'	(1)
GM2	42°00'	(2)
GM3	42°00'	(3)
GM23	42°00'	69°50'
GM24	43°00'	69°50'
GM11	43°00'	70°00'
GM17	43°30'	70°00'
GM18	43°00'	(4)

¹ Massachusetts shoreline.

² Cape Cod shoreline on Cape Cod Bay.
³ Cape Cod shoreline on the Atlantic Ocean.
⁴ 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 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.* 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.* 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 Hook-gear permit and fishing under a NE 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 and prohibited from fishing, setting, or hauling back, per day, or possessing on board the vessel, more than 3,600 rigged hooks. All 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.

(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	(¹)	(¹)

¹ 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'

CULTIVATOR SHOAL WHITING FISHERY
EXEMPTION AREA—Continued

Point	N. Lat.	W. Long.
CI4	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 size 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)):

SMALL MESH AREA I

Point	N. Lat.	W. Long.
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'

SMALL-MESH AREA II

Point	N. Lat.	W. Long.
SM13	43°05.6'	69°55.0'
SM14	43°10.1'	69°43.3'
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 $\frac{3}{8}$ -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 $\frac{5}{16}$ 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'
CI1	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 Areas 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'

¹ 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)

Point	N. Lat.	W. Long.
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'

¹The 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'	

¹ 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 7-inch (17.8-cm) diamond mesh or 6.5-inch (16.5-cm) 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 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) × 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.* 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) × 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.* 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) × 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 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 and are prohibited from fishing, setting, or hauling back, per day, or possessing on board the vessel, more than 2,000 rigged hooks. All 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.

(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) reserved

(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		70°00' ¹

¹Northward 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; 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) * * *

(ii) *Large-mesh vessels.* 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 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. The use of de-hookers (“crucifiers”) with less than 6-inch (15.2-cm) spacing between the fairlead rollers is prohibited.

* * * * *

(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 (d), (g)(1), (g)(2)(iii) through (v), (h), (i) and (n) are revised to read as follows:

§ 648.81 Closed areas.

* * * * *

(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'

¹ 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)

¹ Massachusetts shoreline.
² Cape Cod shoreline on Cape Cod Bay.
³ 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°00'	70°00'
GM6	42°30'	68°30'
GM14	43°30'	68°30'
GM10	43°30'	(4)

¹ Massachusetts shoreline.
² Cape Cod shoreline on Cape Cod Bay.
³ Cape Cod shoreline on the Atlantic Ocean.
⁴ 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'

¹ Massachusetts shoreline.
² U.S.-Canada maritime boundary.
³ 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)	

¹ Massachusetts shoreline.
² Cape Cod shoreline on Cape Cod Bay.
³ 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) Fish harvested or possessed by the vessel are not sold or intended for trade, barter or sale, regardless of where the fish 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 AREA¹

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'

¹A 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 CLOSURE¹

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'
WGM1	42°15'	70°15'

¹A 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'
CL1	41°30'	69°23'
CL2	40°45'	68°45'
CL3	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'

¹Northward 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 text of 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 must be tagged with two tags per net, with one tag secured to each bridle of every net, with 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 secured to every other 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 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 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 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 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 secured to every other 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 (l)(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 (l)(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 (l)(2) of this section, shall be allocated 80 percent of its DAS baseline specified under paragraph (l)(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) *Appeal of used DAS baseline.* (i) A vessel's used DAS baseline as determined under paragraph (l)(1) of this section, may be appealed to the Regional Administrator, by submitting a written request to appeal. The request to appeal must be received by the Regional Administrator no later than August 31, 2002. The request to appeal 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 appeal shall be determined solely on the basis of written information submitted, unless the Regional Administrator specifies otherwise. The Regional Administrator's

decision on appeal is the final decision of the Department of Commerce.

(ii) *Status of vessel's pending appeal of used DAS baseline.* While a vessel's used DAS baseline is under appeal, the vessel is limited to fishing with the number of DAS in accordance with § 648.80(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, or part of an 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, 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 Area, provided the vessel complies with the following requirements in order to fish for possess, or land yellowtail flounder:

(i) The vessel possess on board a yellowtail exemption letter issued by the Regional Administrator.

(ii) The vessel does not fish in the SNE Regulated Mesh Area, or south of 40°00' N. lat. for a minimum of 30

consecutive days (when fishing under the NE multispecies DAS program). Vessels subject to these restrictions may transit the SNE Regulated Mesh Area and south of 40°00' N. lat. 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 Regulated Mesh Area.* Beginning August 1, 2002, except when fishing under the recreational and charter/party restrictions specified under § 648.89, a vessel issued a NE multispecies permit and fishing any portion of a trip under a NE multispecies DAS north of 40°00' N. lat. in the SNE Regulated Mesh Area 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 authorization letter issued by the Regional Administrator.

(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). Vessels subject to these restrictions may transit 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 south of 40°00' N. lat.* 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 not in possession of a valid exemption letter or a vessel fishing any portion of a trip south of 40°00' N. lat is prohibited from possessing or landing yellowtail flounder.

11. In § 648.88, the introductory text for paragraph (a), and paragraph (a)(1) 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) 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.

* * * * *

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, filets 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 where, 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) 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.)

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(8) * * *

(i) *Number and size of nets.* A vessel issued a monkfish limited access permit or 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, or 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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