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Title 50 —Wildlife and Fisheries

Chapter VI —Fishery Conservation and Management, National Oceanic and Atmospheric Administration, Department of Commerce

Part 648 —Fisheries of the Northeastern United States

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Subpart F Management Measures for the NE Multispecies and Monkfish Fisheries

- § 648.80 NE Multispecies regulated mesh areas and restrictions on gear and methods of fishing.
- § 648.81 NE multispecies year-round and seasonal closed areas.
- § 648.82 Effort-control program for NE multispecies limited access vessels.
- § 648.83 Multispecies minimum fish sizes.
- § 648.84 Gear-marking requirements and gear restrictions.
- § 648.85 Special management programs.
- § 648.86 NE Multispecies possession restrictions.
- § 648.87 Sector allocation.
- § 648.88 Multispecies open access permit restrictions.
- § 648.89 Recreational and charter/party vessel restrictions.
- § 648.90 NE multispecies assessment, framework procedures and specifications, and flexible area action system.
- § 648.91 Monkfish regulated mesh areas and restrictions on gear and methods of fishing.
- § 648.92 Effort-control program for monkfish limited access vessels.
- § 648.93 Monkfish minimum fish sizes.
- § 648.94 Monkfish possession and landing restrictions.
- § 648.95 Offshore Fishery Program in the SFMA.
- § 648.96 FMP review, specification, and framework adjustment process.
- § 648.97 Closed areas.

Editorial Note: Nomenclature changes to part 648 appear at 62 FR 14651, Mar. 27, 1997.

Subpart F—Management Measures for the NE Multispecies and Monkfish Fisheries

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

Except as provided in § 648.17, all vessels must comply with the following minimum mesh size, gear and methods of fishing requirements, unless otherwise exempted or prohibited.

- (a) *Gulf of Maine (GOM) and 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)
G2	43°58'	67°22'
G3	42°53.1'	67°44.4'
G4	42°31'	67°28.1'
CII3	42°22'	67°20' ²

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.
CII3	42°22'	67°20' ¹
G6	42°20'	67°20'
G7	42°20'	69°30'
G8	42°00'	69°30'
G9	42°00'	(²)

¹ The U.S.-Canada Maritime Boundary.

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

- (2) **GB Regulated Mesh Area.** The GB Regulated Mesh Area (copies of a map depicting the area are available from the Regional Administrator upon request) is that area:

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

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

GB REGULATED MESH AREA

Point	N. latitude	W. longitude
CII3	42°22'	67°20' ¹
SNE1	40°24'	65°43' ²

¹ The U.S.-Canada Maritime Boundary.

² 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°40'
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 § 648.85(b)(6), and unless otherwise restricted under paragraph (a)(3)(iii) of this section, the minimum mesh size for any trawl net, except a midwater trawl, on a vessel or used by a vessel fishing under the NE multispecies DAS program or on a sector trip in the GOM Regulated Mesh Area is 6-inch (15.2-cm) diamond mesh or 6.5-inch (16.5-cm) square mesh, applied throughout the body and extension of the net, or any combination thereof, and 6.5-inch (16.5-cm) diamond mesh or square mesh applied to the codend of the net as defined in paragraphs (a)(3)(i)(A) and (B) of this section, provided the vessel complies with the requirements of paragraph (a)(3)(vii) of this section. This restriction does not apply to nets or pieces of nets smaller than 3 ft (0.9 m) × 3 ft (0.9 m), (9 sq ft (0.81 sq m)), or to vessels that have not been issued a NE multispecies permit and that are fishing exclusively in state waters.

- (A) For vessels greater than 45 ft (13.7 m) in length overall, a diamond mesh codend is defined as the first 50 meshes counting from the terminus of the net, and a square mesh codend is defined as the first 100 bars counting from the terminus of the net.

- (B) For vessels 45 ft (13.7 m) or less in length overall, a diamond mesh codend is defined as the first 25 meshes counting from the terminus of the net, and a square mesh codend is defined as the first 50 bars counting from the terminus of the net.
- (ii) **Vessels using Scottish seine, midwater trawl, and purse seine.** Except as provided in paragraphs (a)(3)(ii) and (vi) of this section, and unless otherwise restricted under paragraph (a)(3)(iii) of this section, the minimum mesh size for any Scottish seine, midwater trawl, or purse seine on a vessel or used by a vessel fishing under a DAS in the NE multispecies DAS program in the GOM Regulated Mesh Area is 6-inch (15.2-cm) diamond mesh or 6.5-inch (16.5-cm) square mesh applied throughout the net, or any combination thereof, provided the vessel complies with the requirements of paragraph (a)(3)(vii) of this section. This restriction does not apply to nets or pieces of nets smaller than 3 ft (0.9 m) × 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)(4), 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 –**
 - (1) **Mesh size.** 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 any vessel that obtains an annual designation as a Trip gillnet vessel, the minimum mesh size for any sink gillnet when fishing in the NE multispecies DAS program or on a sector trip 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.
 - (2) **Net size requirements.** Nets may not be longer than 300 ft (91.4 m), or 50 fathoms (91.4 m) in length.
 - (B) **Day gillnet vessels –**
 - (1) **Mesh size.** 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 any vessel that obtain an annual designation as a Day gillnet vessel, the minimum mesh size for any sink gillnet when fishing under the NE multispecies DAS program or on a sector trip 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.
 - (2) **Number of nets.** A day gillnet vessel fishing under a NE multispecies DAS or on a sector trip and fishing in the GOM Regulated Mesh Area may not fish with, haul, possess, or deploy more than 50 roundfish sink gillnets or 100 flatfish (tie-down) sink gillnets, each of which must be tagged pursuant to paragraph (a)(3)(iv)(C) of this

section, except as provided in § 648.92(b)(8)(i). Vessels may fish any combination of roundfish and flatfish gillnets up to 100 nets, and may stow additional nets not to exceed 160 nets, counting deployed nets.

- (3) **Net size requirements.** Nets may not be longer than 300 ft (91.4 m), or 50 fathoms (91.4 m) in length.
- (4) **Tags.** 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. Gillnet vessels must also abide by the tagging requirements in paragraph (a)(3)(iv)(C) of this section.

(C) **Obtaining and replacing tags.** 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 or a Trip gillnet vessel. The vessel operator must produce all net tags upon request by an authorized officer. A vessel may have tags on board in excess of the number of tags corresponding to the allowable number of nets, provided such tags are onboard the vessel and can be made available for inspection.

- (1) **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.
- (2) **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 by the Regional Administrator before tags will be re-issued.

(v) **Hook gear restrictions.** Unless otherwise specified in this paragraph (a)(3)(v) or § 648.87(c), vessels fishing with a valid NE multispecies limited access permit and fishing under a NE multispecies DAS or on a sector trip, and vessels fishing with a valid NE multispecies limited access Small-Vessel permit in the GOM Regulated Mesh Area, and persons on such vessels, are prohibited from fishing, setting, or hauling back, per day, or possessing on board the vessel, more than 2,000 rigged hooks. All longline gear hooks must be circle hooks, of a minimum size of 12/0. An unbaited hook and gangion that has not been secured to the ground line of the trawl on board a vessel during the fishing trip 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 during the fishing trip. The use of de-hookers (“crucifer”) with less than 6-inch (15.2-cm) spacing between the fairlead rollers is prohibited. Vessels fishing with a valid NE multispecies limited access Hook Gear permit and fishing under a multispecies DAS or on a sector trip in the GOM Regulated Mesh Area, and persons on such vessels, are prohibited from possessing gear other than hook gear on board the vessel. Vessels fishing with a valid NE multispecies limited access Handgear A permit, and persons on such vessels, are prohibited from fishing, or possessing on board the vessel, gear other than handgear. Vessels fishing with tub-trawl gear are prohibited from fishing, setting, or hauling back, per day, or possessing on board the vessel more than 250 hooks.

(vi) **Other restrictions and exemptions.** A vessel is prohibited from fishing in the GOM or GB Exemption Area as defined in paragraph (a)(17) 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)(16) and (a)(18) through (a)(19), (d), (e), (h), and (i) of this section; or if fishing under a NE multispecies DAS; or if fishing on a sector trip; or if fishing under the Small Vessel or Handgear A permit specified in § 648.82(b)(5) and (6), respectively; or if fishing under a Handgear B permit specified in § 648.88(a); or if fishing under the scallop state waters exemptions specified in § 648.54 and paragraph (h)(3)(i) of this section; or if fishing under a scallop DAS or general category trip in accordance with paragraph (h) of this section; or if fishing pursuant to a NE multispecies open access Charter/Party or Handgear permit specified in § 648.88; or if fishing as a charter/party or private recreational vessel in compliance with § 648.89. Any gear used by a vessel in this area must be authorized under one of these exemptions. Any gear on a vessel that is not authorized under one of these exemptions must be stowed and not available for immediate use as defined in § 648.2.

- (vii) **Rockhopper and roller gear restrictions.** For all trawl vessels fishing on a NE multispecies DAS or sector trip 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 (30.5 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. Latitude	W. Longitude
1	42°00'	(¹)
2	42°00'	(²)
3	42°00'	(³)
4	42°00'	69°50'
5	43°00'	69°50'
6	43°00'	70°00'
7	43°30'	70°00'
8	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.

(4) **GB regulated mesh area minimum mesh size and gear restrictions –**

- (i) **Vessels using trawls.** Except as provided in paragraph (a)(3)(vi) of this section, this paragraph (a)(4)(i), § 648.85(b)(6) and (8), and § 648.87(c)(2)(ii), and unless otherwise restricted under paragraph (a)(4)(iii) of this section, the minimum mesh size for any trawl net, except a 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 as defined in § 648.2, on a vessel or used by a vessel fishing under the NE multispecies DAS program or on a sector

trip 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 in paragraph (a)(3)(i) of this section, provided the vessel complies with the requirements of paragraphs (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 paragraph (a)(3)(vi) of this section, and this paragraph (a)(4)(ii), 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 as defined in § 648.2, 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, 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 as defined in § 648.2, on a vessel or used by a vessel fishing under a DAS in the Large-mesh DAS program, specified in § 648.82(b)(5), 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 paragraph (a)(3)(vi) of this section and this paragraph (a)(4)(iv), for Day and Trip gillnet vessels, the minimum mesh size for any sink 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 as defined in § 648.2, when fishing under a DAS in the NE multispecies DAS program or on a sector trip 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.

(A) **Trip gillnet vessels.** A Trip gillnet vessel fishing under a NE multispecies DAS or on a sector trip and fishing in the GB Regulated Mesh Area may not fish with nets longer than 300 ft (91.4 m), or 50 fathoms (91.4 m) in length.

(B) **Day gillnet vessels —**

- (1) **Number of nets.** A Day gillnet vessel fishing under a NE multispecies DAS or on a sector trip and fishing in the GB Regulated Mesh Area may not fish with, haul, possess, or deploy more than 50 nets, except as provided in § 648.92(b)(8)(i).
- (2) **Net size requirements.** Vessels may fish any combination of roundfish and flatfish gillnets, up to 50 nets. Such vessels, may stow additional nets not to exceed 150, counting the deployed net. Such vessels may stow additional nets in accordance with the definition of not available for immediate use as defined in § 648.2 not to exceed 150 nets, counting the deployed net.
- (3) **Tags.** Roundfish or flatfish nets must be tagged with two tags per net, with one tag secured to each bridle of every net within a string of nets.
- (4) **Obtaining and replacing tags.** See paragraph (a)(3)(iv)(C) of this section.
- (v) **Hook gear restrictions.** Unless otherwise specified in this paragraph (a)(4)(v), vessels fishing with a valid NE multispecies limited access permit and fishing under a NE multispecies DAS, and vessels fishing with a valid NE multispecies limited access Small-Vessel permit, in the GB Regulated Mesh Area, and persons on such vessels, are prohibited from possessing gear other than hook gear on board the vessel and prohibited from fishing, setting, or hauling back, per day, or possessing on board the vessel, more than 3,600 rigged hooks. All longline gear hooks must be circle hooks, of a minimum size of 12/0. An unabated hook and gangions 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 (“crucifer”) with less than 6-inch (15.2-cm) spacing between the fairlead rollers is prohibited. Vessels fishing with a valid NE multispecies limited access Hook gear permit and fishing under a multispecies DAS in the GB Regulated Mesh Area, and persons on such vessels, are prohibited from possessing gear other than hook gear on board the vessel. Vessels fishing with a valid NE multispecies limited access Handgear A permit are prohibited from fishing or possessing on board the vessel, gear other than hand gear. Vessels fishing with tub-trawl gear are prohibited from fishing, setting, or hauling back, per day, or possessing on board the vessel more than 250 hooks.
- (vi)-(viii) [Reserved]
- (5) **Small Mesh Northern Shrimp Fishery Exemption.** Vessels subject to the minimum mesh size restrictions specified in this paragraph (a) may fish for, harvest, possess, or land northern shrimp in the GOM, GB, SNE, and MA Regulated Mesh Areas, as described under paragraphs (a)(1), (a)(2), (b)(1), and (c)(1) of this section, respectively, 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.
 - (i) **Restrictions on fishing for, possessing, or landing fish other than shrimp.** 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.

(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'
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) 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: Atlantic herring, up to the amount specified in § 648.204; longhorn sculpin; squid, butterfly, and Atlantic mackerel, up to the amounts specified in § 648.26; spiny dogfish, up to the amount specified in § 648.235; red hake, up to the amount specified in § 648.86(d), 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/146 lb (66 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) 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 (18.3 m) in length and applied to 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.
 - (D) Fishing is confined to a season of June 15 through October 31, unless otherwise specified by notification in the FEDERAL REGISTER.
 - (E) When a vessel is transiting through the GOM or GB Regulated Mesh Areas specified under paragraphs (a)(1) and (2) of this section, any nets with a mesh size smaller than the minimum mesh specified in paragraphs (a)(3) or (4) of this section must be stowed and not available for immediate use as defined in § 648.2, unless the vessel is fishing for small-mesh multispecies under another exempted fishery specified in this paragraph (a).
 - (F) 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 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 and consistent with paragraph (a)(15)(i)(G) of this section. For example, a vessel may fish in both the Cultivator Shoal Whiting Fishery Exemption Area and the Southern New England or Mid-Atlantic Exemption Areas, and would be restricted to a minimum mesh size of 3 in (7.62 cm) and a maximum trip limit of 30,000 lb (13,607.77 kg) for silver hake and offshore hake, combined, as required in the Cultivator Shoal Whiting Fishery Exemption Area.
- (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 Area 1/Small Mesh Area 2 fishery, as specified in paragraph (a)(9) of this section, may transit through the Scallop Dredge Fishery Exemption Area as specified in paragraph (a)(11) 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 as defined in § 648.2. Vessels fishing in the Small Mesh Northern Shrimp Fishery, as specified in paragraph (a)(3) of this section, may transit through the GOM, GB, SNE, and MA Regulated Mesh Areas, as described in paragraphs (a)(1), (a)(2), (b)(1), and (c)(1) of this section, respectively, with nets of mesh size smaller than the minimum mesh size specified in paragraphs (a)(3), (a)(4), (b)(2), and (c)(2) of this section, provided the nets are stowed and not available for immediate use as defined in § 648.2.
- (ii) Vessels subject to the minimum mesh size restrictions specified in paragraphs (a)(3) or (4) of this section may transit through the Scallop Dredge Fishery Exemption Areas defined in paragraphs (a)(11) and (18) of this section with nets on board with a mesh size smaller than the minimum size specified, provided that the nets are stowed and not available for immediate use as defined in § 648.2, 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 and not available for immediate use as defined in § 648.2.
 - (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) ***Exemption allowing no incidental catch of 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, unless otherwise specified in this paragraph (a)(8)(i) of this section, and that such exemption will not jeopardize fishing mortality objectives. The 5-percent regulated species incidental bycatch standard could be modified for a stock that is not in an overfished condition, or if overfishing is not occurring on that stock. When considering modifications of the standard, it must be shown that the change will not delay a rebuilding program, or result in overfishing or an overfished condition. 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, sacrifices in yield that will result from that mortality, the ratio of target species to regulated species, status of stock rebuilding, and recent recruitment of regulated species. 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. The Regional Administrator may modify or delete an existing exemption if he/she determines that the catch of regulated species is equal to or greater than 5 percent, by weight of total catch, or another pertinent approved amount, 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.

- (ii) ***Exemption allowing incidental catch of regulated species.*** An exemption may be added in an existing fishery that would allow vessels to retain and land regulated multispecies, under the restrictions specified in paragraphs (a)(8)(ii)(A) through (C) of this section, if the Regional Administrator, after consultation with the NEFMC, considers the status of the regulated species stock or stocks caught in the fishery, the risk that this exemption would result in a targeted regulated species fishery, the extent of the fishery in terms of time and area, and the possibility of expansion in the fishery. Incidental catch in exempted fisheries under this paragraph (a)(8)(ii) are subject, at a minimum, to the following restrictions:
 - (A) A prohibition on the possession of regulated multispecies that are overfished or where overfishing is occurring;
 - (B) A prohibition on the possession of regulated species in NE multispecies closure areas; and
 - (C) A prohibition on allowing an exempted fishery to occur that would allow retention of a regulated multispecies stock under an ongoing rebuilding program, unless it can be determined that the catch of the stock in the exempted fishery is not likely to result in exceeding the rebuilding mortality rate.
- (iii) For exemptions allowing no incidental catch of regulated species, as defined under paragraph (a)(8)(i) of this section, the NEFMC may recommend to the Regional Administrator, through the framework procedure specified in § 648.90(c), 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. For exemptions allowing incidental catch of regulated species, as defined under paragraph (a)(8)(ii) of this section, the NEFMC may recommend to the Regional Administrator, through the framework procedure specified in § 648.90(c), 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, the risk that this exemption would result in a targeted regulated species fishery, the extent of the fishery in terms of time and area, and the possibility of expansion in the fishery.
- (iv) Unless otherwise specified within the exempted fisheries authorized under this paragraph (a)(8), incidental catch is restricted, at a minimum, to the following:
 - (A) With the exception of fisheries authorized under paragraph (a)(8)(ii) 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), (4), (5) or (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; and
- (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, § 648.370, or § 648.371, a vessel subject to the minimum mesh size restrictions specified in paragraph (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 paragraph (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. While lawfully fishing in these areas with mesh smaller than the minimum size, 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, combined, and red hake—up to the amounts specified in § 648.86(d); butterfish, Atlantic mackerel, or squid, up the amounts specified in § 648.26; spiny dogfish, up to the amount specified in § 648.235; Atlantic herring, up to the amount specified in § 648.204; and scup, up to the amount specified in § 648.128.
- (B) 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):

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'

Point	N. lat.	W. long.
SM1	43°03'	70°27'

SMALL MESH AREA II

Point	N. lat.	W. long.
SM13	43°05.6'	69°55'
SM14	43°10.1'	69°43.3'
SM15	42°49.5'	69°40'
SM16	42°41.5'	69°40'
SM17	42°36.6'	69°55'
SM13	43°05.6'	69°55'

- (ii) **Raised footrope trawl.** Vessels fishing in the Small Mesh Areas I and II Exemption Programs described in § 648.80(a)(9)) must configure the vessel's gear with a raised footrope trawl, configured 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 (a)(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 $\frac{1}{2}$ inch (1.2 cm) for the top leg, not larger than $\frac{5}{8}$ inch (1.6 cm) for the bottom leg, and not larger than $\frac{3}{4}$ 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 wing ends.
 - (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 paragraph (a)(3) or paragraph (a)(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'
Cl1	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 paragraphs (a)(3) and (4) of this section must be stowed and not available for immediate use as defined in § 648.2.
 - (D) **Incidental species provisions.** The following species may be possessed and landed, 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/146 lb (66 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. .
 - (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) [Reserved]
 - (12) **Nantucket Shoals Mussel and Sea Urchin Dredge Exemption Area.** Unless otherwise prohibited in § 648.81, § 648.370, or § 648.371, 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 in paragraph (a)(10) of this section.
 - (13) **GOM/GB Dogfish and Monkfish Gillnet Fishery Exemption Area.** Unless otherwise prohibited in § 648.81, § 648.370, or § 648.371, 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'

¹ Due north to Maine shoreline.

N lat.	W long.
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) The minimum mesh size for gillnets are as follows:
 - (1) Through April 30, 2026, all gillnets must have a minimum mesh size of 10-inch (25.4-cm) diamond mesh throughout the net.
 - (2) Starting May 1, 2026, all gillnets must have a minimum mesh size of 12-inch (30.5-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, § 648.370, or § 648.371, 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.** Unless otherwise prohibited in § 648.370 or § 648.371, 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. This exemption does not apply to the Cashes Ledge Closure Areas or the Western GOM Area Closure specified in § 648.81(a)(3) and (4),

respectively. The Raised Footrope Trawl Whiting Fishery Area (copies of a chart 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 AREA
[SEPTEMBER 1 THROUGH NOVEMBER 20]**

Point	N lat.	W long.
RF 1	42°14.05'	70°08.8'
RF 2	42°09.2'	69°47.8'
RF 3	41°54.85'	69°35.2'
RF 4	41°41.5'	69°32.85'
RF 5	41°39'	69°44.3'
RF 6	41°45.6'	69°51.8'
RF 7	41°52.3'	69°52.55'
RF 8	41°55.5'	69°53.45'
RF 9	42°08.35'	70°04.05'
RF 10	42°04.75'	70°16.95'
RF 11	42°00'	70°13.2'
RF 12	42°00'	70°24.1'
RF 13	42°07.85'	70°30.1'
RF 1	42°14.05'	70°08.8'

**RAISED FOOTROPE TRAWL WHITING FISHERY EXEMPTION AREA
[NOVEMBER 21 THROUGH DECEMBER 31]**

Point	N lat.	W long.
RF 1	42°14.05'	70°08.8'
RF 2	42°09.2'	69°47.8'
RF 3	41°54.85'	69°35.2'
RF 4	41°41.5'	69°32.85'
RF 5	41°39'	69°44.3'
RF 6	41°45.6'	69°51.8'
RF 7	41°52.3'	69°52.55'
RF 8	41°55.5'	69°53.45'
RF 9	42°08.35'	70°04.05'

Point	N lat.	W long.
RF 1	42°14.05'	70°08.8'

(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) All nets must be no smaller than a minimum mesh size of 2.5-in (6.35-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 a 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, offshore hake, and red hake, subject to the applicable possession limits as specified in § 648.86(d), except for the following allowable incidental species: Butterfish, Atlantic mackerel, and squid, up to the amounts specified in § 648.26; scup, up to the amount specified in § 648.128; spiny dogfish, up to the amount specified in § 648.235, and Atlantic herring, up to the amount specified in § 648.204.
- (C) [Reserved]
- (D) All nets must comply with the minimum mesh sizes specified in paragraphs (a)(15)(i)(B) 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, except that it may continue to occur in the eastern portion only of the Raised Footrope Trawl Whiting Fishery Exemption Area, which remains open through December 31 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 scup.

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

(16) **GOM Grate Raised Footrope Trawl Exempted Whiting Fishery.** Unless otherwise prohibited in § 648.370 or § 648.371, vessels subject to the minimum mesh size restrictions specified in paragraphs (a)(3) or (4) of this section may fish with, use, and possess in the GOM Grate Raised Footrope Trawl Whiting Fishery area from July 1 through November 30 of each year, nets with a mesh size smaller than the minimum size specified, if the vessel complies with the requirements specified in paragraphs (a)(16)(i) and (ii) of this section. The GOM Grate Raised Footrope Trawl Whiting Fishery Area (copies of a chart depicting the area are available from the Regional Administrator upon request) is defined by straight lines connecting the following points in the order stated:

GOM GRATE RAISED FOOTROPE TRAWL WHITING FISHERY EXEMPTION AREA
[JULY 1 THROUGH NOVEMBER 30]

Point	N lat.	W long.
GRF1	43°15'	70°35.4'
GRF2	43°15'	70°00'
GRF3	43°25.2'	70°00'
GRF4	43°41.8'	69°20'
GRF5	43°58.8'	69°20'

(i) **Mesh requirements and possession restrictions.**

(A) All nets must comply with a minimum mesh size of 2.5-in (6.35-cm) square or diamond mesh, subject to the restrictions specified in paragraph (a)(16)(i)(B) of this section. An owner or operator of a vessel participating in the GOM Grate Raised Footrope Trawl Exempted Whiting Fishery may not fish for, possess on board, or land any species of fish, other than silver hake and offshore hake, subject to the applicable possession limits as specified in paragraph (a)(16)(i)(C) of this section, and red hake, subject to the possession limit specified in § 648.86, except for the following allowable incidental species: Butterfish, Atlantic mackerel, and squid, up to the amounts specified in § 648.26; Atlantic herring, up to the amount specified in § 648.204; and alewife.

(B) All nets must comply with the minimum mesh size specified in paragraph (a)(16)(i)(A) 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.

- (C) An owner or operator of a vessel participating in the GOM Grate Raised Footrope Trawl Exempted Whiting Fishery may fish for, possess, and land combined silver hake and offshore hake only up to 7,500 lb (3,402 kg). An owner or operator fishing with mesh larger than the minimum mesh size specified in paragraph (a)(16)(i)(A) of this section may not fish for, possess, or land silver hake or offshore hake in quantities larger than 7,500 lb (3,402 kg).
 - (ii) **Gear specifications.** In addition to the requirements specified in paragraph (a)(16)(i) of this section, an owner or operator of a vessel fishing in the GOM Grate Raised Footrope Trawl Exempted Whiting Fishery must configure the vessel's trawl gear as specified in paragraphs (a)(16)(ii)(A) through (C) of this section.
 - (A) An owner or operator of a vessel fishing in the GOM Grate Raised Footrope Trawl Exempted Whiting Fishery must configure the vessel's gear with a raised footrope trawl as specified in paragraphs (a)(9)(ii)(A) through (C) of this section. In addition, the restrictions specified in paragraphs (a)(16)(ii)(B) and (C) of this section apply to vessels fishing in the GOM Grate Raised Footrope Trawl Exempted Whiting Fishery.
 - (B) The raised footrope trawl must be used without a sweep of any kind (chain, roller frame, or rockhopper). 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 at least 42 inches (106.7 cm) in length and must be hung at intervals of 8 ft (2.4 m) along the footrope from the corners to the wing ends.
 - (C) The raised footrope trawl net must have a rigid or semi-rigid grate consisting of parallel bars of not more than 50 mm (1.97 inches) 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. The grate must be 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. 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.
 - (iii) **Annual review.** On an annual basis, the Groundfish PDT will review data from this fishery, including sea sampling data, to determine whether adjustments are necessary to ensure that regulated species bycatch remains at a minimum. If the Groundfish PDT recommends adjustments to ensure that regulated species bycatch remains at a minimum, the Council may take action prior to the next fishing year through the framework adjustment process specified in § 648.90(c), and in accordance with the Administrative Procedure Act.
- (17) **GOM/GB Exemption Area—Area definition.** The GOM/GB Exemption Area (copies of a map depicting this area are available from the Regional Administrator upon request) is that area:

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

GULF OF MAINE GEORGES BANK EXEMPTION AREA

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

¹ The intersection of the shoreline and the U.S.-Canada Maritime Boundary

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

GULF OF MAINE/GEORGES BANK EXEMPTION AREA

Point	N. latitude	W. longitude
G6	40°55.5'	66°38'
G7	40°45'	68°00'
G8	40°37'	68°00'
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	(¹)	70°00'

¹ Northward to its intersection with the shoreline of mainland Massachusetts.

(18) [Reserved]

- (19) **Cape Cod Spiny Dogfish Exemption Areas.** Unless otherwise prohibited in § 648.370 or § 648.371, vessels issued a NE multispecies limited access permit that have declared out of the DAS program as specified in § 648.10, or that have used up their DAS allocations, may fish in the Eastern or Western Cape Cod Spiny Dogfish Exemption Area as defined under paragraphs (a)(19)(i) and (ii) of this section, when not under a NE multispecies or scallop DAS, provided the vessel complies with the requirements for the Eastern or Western area, specified in paragraphs (a)(19)(i) and (ii) of this section, respectively.

- (i) **Eastern area definition.** The Eastern Cape Cod Spiny Dogfish Exemption Area is defined by the straight lines connecting the following points in the order stated (copies of a chart depicting the area are available from the Regional Administrator upon request): Eastern Cape Cod Spiny Dogfish Exemption Area [June 1 through December 31, unless otherwise specified in paragraph (a)(19)(i)(A) of this section]

Point	N. latitude	W. longitude
CCD 1	42/00'	70/00'
CCD 2	42/00'	69/47.5'
CCD 3	41/40'	69/47.5'
CCD 4	41/29.5'	69/35.5'
CCD 5	41/29.5'	69/23'
CCD 6	41/26'	69/20'
CCD 7	41/20'	69/20'
CCD 8	41/20'	(¹)
CCD 9	(²)	70/00'
CCD 10	(³)	70/00'
CCD 11	(⁴)	70/00'
CCD 1	42/00'	70/00'

¹ The eastern coastline of Nantucket, MA at 41°20' N. lat.

² The northern coastline of Nantucket, MA at 70°00' W. long.

³ The southern coastline of Cape Cod, MA at 70°00' W. long., then along the eastern coastline of Cape Cod, MA to Point—11

⁴ The northern coastline of Cape Cod, MA, at 70°00' W. long.

(A) **Requirements.**

- (1) A vessel fishing in the Eastern Cape Cod Spiny Dogfish Exemption Area specified in this paragraph (a)(19) may not fish for, possess on board, or land any NE regulated species in accordance with the requirements of paragraph (a)(19) of this section.
- (2) Vessels may use gillnet gear, as specified in § 648.80(a)(4)(iv), or longline gear as specified in § 648.80(a)(4)(v), from June 1 through December 31.
- (3) Vessels may use handgear from June 1 through August 31.

(B) [Reserved]

- (ii) **Western area definition.** The Western Cape Cod Spiny Dogfish Exemption Area is bounded on the north by 42°11.5' N. lat., bounded on the east by 70°00 W. long., and bounded on the south and west by the coast of Massachusetts (copies of a chart depicting the area are available from the Regional Administrator upon request).

(A) **Requirements.**

- (1) A vessel fishing in the Western Cape Cod Spiny Dogfish Exemption Area specified in this paragraph (a)(19) may not fish for, possess on board, or land any NE regulated species in accordance with the requirements of paragraph (a)(19) of this section.
- (2) Vessels may use longline gear as specified in § 648.80(a)(4)(v), and handgear from June 1 through August 31.

(B) [Reserved]

(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 GB Regulated Mesh Area described under paragraph (a)(2)(iii) of this section; 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 § 648.85(b)(6), 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 as defined in § 648.2, except midwater trawl, on a vessel or used by a vessel fishing under the NE multispecies DAS program or on a sector trip 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 6.5-inch (16.5-cm) square or diamond mesh applied to the codend of the net, as defined in paragraph (a)(3)(i) 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 (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 as defined in § 648.2, 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 as defined in § 648.2 on a vessel or used by a vessel fishing under a DAS in the Large-mesh DAS program, specified in § 648.82(b)(4), 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.** For Day and Trip gillnet vessels, the minimum mesh size for any sink gillnet not stowed and not available for immediate use as defined in § 648.2, when fishing under a DAS in the NE multispecies DAS program or on a sector trip in the SNE Regulated Mesh Area, is 6.5 inches (16.5 cm) throughout the entire net. This restriction does not apply to nets or pieces of nets smaller than 3 ft (0.9 m) x 3 ft (0.9 m), (9 sq ft (0.81 sq m)), to vessels fishing with gillnet gear under a monkfish-only DAS in the SNE Dogfish Gillnet Exemption Area in accordance with the provisions specified under paragraph (b)(7)(i)(A) of this section; to vessels fishing with gillnet gear under a monkfish-only DAS in the Mid-Atlantic Exemption Area in accordance with the provisions specified under paragraph (c)(5)(ii) of this section; or to vessels that have not been issued a NE multispecies permit and that are fishing exclusively in state waters. Day gillnet vessels must also abide by the tagging requirements in paragraph (a)(3)(iv)(C) of this section.
- (A) **Trip gillnet vessels.** A Trip gillnet vessel fishing under a NE multispecies DAS or on a sector trip and fishing in the SNE Regulated Mesh Area may not fish with nets longer than 300 ft(91.4 m), or 50 fathoms (91.4 m) in length.
- (B) **Day gillnet vessels —**
 - (1) **Number of nets.** A Day gillnet vessel fishing under a NE multispecies DAS or on a sector trip and fishing in the SNE Regulated Mesh Area may not fish with, haul, possess, or deploy more than 75 nets, except as provided in § 648.92(b)(8)(i). Such vessels may stow additional nets in accordance with the definition of not available for immediate use as defined in § 648.2 not to exceed 150 nets, counting the deployed net.
 - (2) **Net size requirements.** Nets may not be longer than 300 ft (91.4 m), or 50 fathoms (91.4 m), in length.
 - (3) **Tags.** Roundfish or flatfish gillnets must be tagged with two tags per net, with one tag secured to each bridle of every net within a string of nets.
- (C) **Obtaining and replacing tags.** See paragraph (a)(3)(iv)(C) of this section.
- (v) **Hook gear restrictions.** Unless otherwise specified in this paragraph (b)(2)(v), vessels fishing with a valid NE multispecies limited access permit and fishing under a NE multispecies DAS, and vessels fishing with a valid NE multispecies limited access Small-Vessel permit, in the SNE Regulated Mesh Area, and persons on such vessels, are prohibited from fishing, setting, or hauling back, per day, or possessing on board the vessel, more than 2,000 rigged hooks. All longline gear hooks must be circle hooks, of a minimum size of 12/0. An unabated hook and gangions 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 (“crucifer”) with less than 6-inch (15.2-cm) spacing between the fairlead rollers is prohibited. Vessels fishing with a valid NE multispecies limited access Hook Gear permit and fishing under a multispecies DAS in the SNE Regulated Mesh Area, and persons on such vessels, are prohibited from possessing gear other than hook gear on board the vessel. Vessels fishing with a valid NE multispecies limited access Handgear A permit are prohibited from fishing, or possessing on board the vessel, gears other than handgear. Vessels fishing with tub-trawl gear are prohibited from fishing, setting, or hauling back, per day, or possessing on board the vessel more than 250 hooks.

(vi) **Other restrictions and exemptions.** A vessel is 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), (b)(12), (c), (e), (h), and (i) of this section; or if fishing under a NE multispecies DAS; or if fishing on a sector trip; or if fishing under the Small Vessel or Handgear A permit specified in § 648.82(b)(5) and (6), respectively; or if fishing under a Handgear B permit specified in § 648.88(a); or if fishing under a scallop state waters exemption specified in § 648.54; or if fishing under a scallop DAS or General Category scallop permit in accordance with paragraph (h) of this section; or if fishing pursuant to a NE multispecies open access Charter/Party or Handgear permit specified in § 648.88; 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 and not available for immediate use as defined in § 648.2.

(3) **Exemptions —**

(i) **Species exemption.** Unless otherwise restricted in § 648.86, 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 (caught by trawl only), herring, Atlantic chub mackerel, 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).

(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 paragraphs (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 as defined in § 648.2, 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/146 lb (66 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 (except for barndoor skate and other prohibited skate species (see §§ 648.14(v)(2) and 648.322(g))—up to 10 percent, by weight, of all other species on board.

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

(5) **SNE Monkfish and Skate Trawl Exemption Area.** Unless otherwise required or prohibited by monkfish or skate 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 and

skate 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 and incidentally caught species up to the amounts specified in paragraph (b)(3) of this section.
- (B) All trawl nets must comply with the minimum mesh size specified under § 648.91(c)(1)(i).
- (C) A vessel not operating under a multispecies DAS may fish for, possess on board, or land skates, provided:
 - (1) The vessel is called into the monkfish DAS program (§ 648.92) and complies with the skate possession limit restrictions at § 648.322;
 - (2) The vessel has a valid letter of authorization on board to fish for skates as bait, and complies with the requirements specified at § 648.322(c); or
 - (3) The vessel possesses and/or lands skates or skate parts in an amount not to exceed 10 percent by weight of all other species on board as specified at paragraph (b)(3) of this section.

(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; the monkfish regulations, as applicable, under §§ 648.91 through 648.94; and the skate regulations, as applicable, under §§ 648.4 and 648.322. 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 the SNE Monkfish and Skate Gillnet Exemption may only fish for, possess on board, or land monkfish as specified in § 648.94(b), spiny dogfish up to the amount specified in § 648.235, and other incidentally caught species up to the 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 and not available for immediate use as defined in § 648.2.

- (D) A vessel not operating under a NE multispecies DAS may fish for, possess on board, or land skates, provided:
 - (1) The vessel is called into the monkfish DAS program (§ 648.92) and complies with the skate possession limit restrictions at § 648.322;
 - (2) The vessel has a valid letter of authorization on board to fish for skates as bait, and complies with the requirements specified at § 648.322(c); or
 - (3) The vessel possesses and/or lands skates or skate parts in an amount not to exceed 10 percent, by weight, of all other species on board as specified at paragraph (b)(3) of this section.
- (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 subpart L of this part. 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 the SNE Dogfish Gillnet 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, unless fishing under a monkfish DAS. A vessel fishing under this exemption while on a monkfish-only DAS may also fish for, possess on board, and land monkfish up to the amount specified in § 648.94.
 - (B) All gillnets must have a minimum mesh size of 6-inch (15.2-cm) diamond mesh throughout the net. A vessel fishing under this exemption while on a monkfish-only DAS may not fish with, possess, haul, or deploy more than 50 roundfish gillnets, as defined in § 648.2.
 - (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-northeasterly through Block Island, RI, to 41°15' N. lat. and 71°07' W. long.; then due north to the intersection of the RI-MA shoreline.

(i) **Requirements.**

- (A) A vessel fishing under this exemption may fish only for, possess on board, or land little tunny and the allowable incidental species and amounts specified in paragraph (b)(3) of this section and, if applicable, paragraph (b)(9)(i)(B) of this section. Vessels fishing under this exemption may not possess regulated species.
- (B) A vessel may possess bonito as an allowable incidental species.
- (C) The vessel must have a letter of authorization issued by the Regional Administrator on board.
- (D) All gillnets must have a minimum mesh size of 5.5-inch (14.0-cm) diamond mesh throughout the net.
- (E) All nets with a mesh size smaller than the minimum mesh size specified in paragraph (b)(9)(i)(D) of this section must be stowed and not available for immediate use as defined in § 648.2 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'

¹ Northward to its intersection with the shoreline of mainland Massachusetts.

Point	N. lat.	W. long.
G12		70°00' ¹

¹ Northward to its intersection with the shoreline of mainland Massachusetts.

- (ii) Bounded on the west by a line running from the Rhode Island shoreline at 41°18.2' N. lat. and 71°51.5' W. long. (Watch Hill, RI), southwesterly through Fishers Island, NY, to Race Point, Fishers Island, NY; and from Race Point, Fishers Island, NY; southeasterly to the intersection of the 3-nautical mile line east of Montauk Point; southwesterly along the 3-nautical mile line to the intersection of 72°30' W. long.; and south along that line to the intersection of the outer boundary of the EEZ.
- (11) [Reserved]
- (12) **SNE Skate Bait Trawl Exemption Area.** Vessels issued an open access skate permit and a skate bait Letter of Authorization as specified in § 648.322(c) that have declared out of the DAS program as specified in § 648.10, or that have used up their DAS allocations, may fish in the SNE Skate Bait Trawl Exemption Area as defined under paragraph (b)(12)(i) of this section, when not under a NE multispecies or scallop DAS, provided the vessel complies with the requirements specified in paragraph (b)(1)(ii) of this section.
 - (i) **Area definition.** The SNE Skate Bait Trawl Exemption Area is defined by the straight lines connecting the following points in the order stated (copies of a chart depicting the area are available from the Regional Administrator upon request):

SNE SKATE BAIT TRAWL EXEMPTION AREA [JULY 1 THROUGH OCTOBER 31]

Point	N. lat.	W. long.
SBT 1	Southeastern MA	71°00'
SBT 2	41°00'	71°00'
SBT 3	41°00'	72°05'
SBT 4	Southern CT	72°05'

- (ii) **Requirements.**
 - (A) A vessel fishing in the SNE Skate Bait Trawl Exemption Area specified in this paragraph (b)(12) may not fish for, possess on board, or land any NE regulated species.
 - (B) Vessels must use trawl gear, as specified in § 648.80(b)(2)(i).
 - (C) Vessels must possess an active skate bait letter of authorization issued by the Regional Administrator, as specified in § 648.322(c) and fish pursuant to the terms of authorization.

(D) Fishing may only occur from July 1 through October 31 of each fishing year.

(c) **Mid-Atlantic (MA) Regulated Mesh Area –**

(1) **Area definition.** The MA Regulated Mesh Area is that area bounded on the east by the western boundary of the SNE Regulated Mesh Area, described under paragraph (b)(1)(ii) of this section.

(2) **Gear restrictions –**

- (i) **Vessels using trawls.** Except as provided in paragraph (c)(2)(iii) of this section, and § 648.85(b)(6), the minimum mesh size for any trawl net not stowed and not available for immediate use as defined in § 648.2, on a vessel or used by a vessel fishing under the NE multispecies DAS program or on a sector trip in the MA Regulated Mesh Area, shall be that specified by § 648.108(a), applied throughout the body and extension of the net, or any combination thereof, and 6.5-inch (16.5-cm) diamond or square mesh applied to the codend of the net, as defined in paragraph (a)(3)(i) 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 paragraph (c)(2)(iii) of this section, the minimum mesh size for any sink gillnet, Scottish seine, midwater trawl, or purse seine, not stowed and not available for immediate use as defined in § 648.2, on a vessel or used by a vessel fishing under a DAS in the NE multispecies DAS program in the MA Regulated Mesh Area, shall be that specified in § 648.108(a). This restriction does not apply to nets or pieces of nets smaller than 3 ft (0.9 m) × 3 ft (0.9 m), (9 sq ft (0.81 sq m)), or to vessels that have not been issued a NE multispecies permit and that are fishing exclusively in state waters.
- (iii) **Large-mesh vessels.** When fishing in the MA Regulated Mesh Area, the minimum mesh size for any trawl net vessel, or sink gillnet, not stowed and not available for immediate use as defined in § 648.2, on a vessel or used by a vessel fishing under a DAS in the Large-mesh DAS program, specified in § 648.82(b)(4), 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) × 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.** Unless otherwise specified in this paragraph (c)(2)(iv), vessels fishing with a valid NE multispecies limited access permit and fishing under a NE multispecies DAS, and vessels fishing with a valid NE multispecies limited access Small Vessel permit, in the MA Regulated Mesh Area, and persons on such vessels, are prohibited from using de-hookers (“crucifer”) with less than 6-inch (15.2-cm) spacing between the fairlead rollers. Vessels fishing with a valid NE multispecies limited access Hook gear permit and fishing under a NE multispecies DAS in the MA 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 unabated hook and gangions 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. Vessels fishing with a valid NE multispecies limited access Handgear permit are

prohibited from fishing, or possessing on board the vessel gears other than handgear. Vessels fishing with tub-trawl gear are prohibited from fishing, setting, or hauling back, per day, or possessing on board the vessel, more than 250 hooks.

(v) **Gillnet vessels.** For Day and Trip gillnet vessels, the minimum mesh size for any sink gillnet, not stowed and not available for immediate use as defined in § 648.2, when fishing under a DAS in the NE multispecies DAS program or on a sector trip in the MA Regulated Mesh Area, is 6.5 inches (16.5 cm) throughout the entire net. This restriction does not apply to nets or pieces of nets smaller than 3 ft (0.9 m) x 3 ft (0.9 m), (9 sq ft (0.81 sq m)), to vessels fishing with gillnet gear under a monkfish-only DAS in the Mid-Atlantic Exemption Area in accordance with the provisions specified under paragraph (c)(5)(ii) of this section, or to vessels that have not been issued a NE multispecies permit and that are fishing exclusively in state waters.

(A) **Trip gillnet vessels.** A Trip gillnet vessel fishing under a NE multispecies DAS or on a sector trip and fishing in the MA Regulated Mesh Area may not fish with nets longer than 300 ft (91.4 m), or 50 fathoms (91.4 m) in length.

(B) **Day gillnet vessels —**

(1) **Number of nets.** A Day gillnet vessel fishing under a NE multispecies DAS or on a sector trip and fishing in the MA Regulated Mesh Area, may not fish with, haul, possess, or deploy more than 75 nets, except as provided in § 648.92(b)(8)(i). Such vessels may stow additional nets in accordance with the definition of not available for immediate use as defined in § 648.2 not to exceed 150 nets, counting the deployed net.

(2) **Net size requirement.** Nets may not be longer than 300 ft (91.4 m), or 50 fathoms (91.4 m), in length.

(3) **Tags.** Roundfish or flatfish gillnets must be tagged with two tags per net, with one tag secured to each bridle of every net within a string of nets.

(C) **Obtaining and replacing tags.** See paragraph (a)(3)(iv)(C) of this section.

(3) **Net stowage exemption.** Vessels may possess regulated species while in possession of nets with mesh smaller than the minimum size specified in paragraph (c)(2)(i) of this section, provided that such nets are stowed and are not available for immediate use as defined in § 648.2, and provided that regulated species were not harvested by nets of mesh size smaller than the minimum mesh size specified in paragraph (c)(2)(i) of this section.

(4) **Addition or deletion of exemptions.** See paragraph (a)(8)(ii) of this section.

(5) **MA Exemption Area.**

(i) The MA Exemption Area is that area that lies west of the SNE Exemption Area defined in paragraph (b)(10) of this section.

(ii) **Monkfish/Spiny Dogfish Exempted Gillnet Fishery.** A vessel fishing on a monkfish-only DAS may fish with, use, or possess gillnets in the MA Exemption Area with a mesh size smaller than the minimum size specified in paragraph (b)(2)(iv) or (c)(2)(v) of this section, provided the vessel complies with the following requirements:

- (A) **Number of nets.** Notwithstanding the provisions specified in paragraphs (c)(2)(v)(A) and (B) of this section and § 648.92(b)(8), a vessel fishing on a monkfish-only DAS within the MA Exemption Area may not fish with, possess, haul, or deploy more than 50 roundfish gillnets, as defined in § 648.2.
 - (B) **Minimum mesh size.** The minimum mesh size for any roundfish gillnet not stowed and available for immediate use by a vessel fishing on a monkfish-only DAS within the MA Exemption Area is 5 inches (12.7 cm) throughout the entire net.
 - (C) **Possession limits.** A vessel fishing on a monkfish-only DAS within the MA Exemption Area may fish for, possess on board, or land monkfish up to the amount specified in § 648.94, spiny dogfish up to the amount specified in § 648.235, and other incidentally caught species up to the amounts specified in paragraph (b)(3) of this section.
- (iii) **Atlantic chub mackerel fishery exemption.** Owners and operators of vessels subject to the minimum mesh size restrictions specified in paragraphs (b)(2) and (c)(2) of this section may fish for, harvest, possess, or land Atlantic chub mackerel with nets of a mesh size smaller than the minimum size specified in the SNE Regulated Mesh Area when fishing in the MA Exemption Area defined in paragraph (c)(5)(i) of this section, provided such vessels comply with the following requirements:
- (A) **Gear restrictions.** A vessel fishing for Atlantic chub mackerel within the MA Exemption Area must comply with the gear restrictions specified in § 648.23.
 - (B) **Possession limits.** A vessel fishing for Atlantic chub mackerel within the MA Exemption Area may fish for, possess on board, or land Atlantic chub mackerel, Atlantic mackerel, butterfish, *Illex* squid, and longfin squid up to the amount specified in § 648.26, and other incidentally caught species up to the amounts specified in paragraph (b)(3) of this section.
- (d) **Midwater trawl gear exempted fishery.** Fishing may take place throughout the fishing year with midwater trawl gear of mesh size less than the applicable minimum size specified in this section, provided that:
- (1) Midwater trawl gear is used exclusively;
 - (2) When fishing under this exemption in the GOM/GB Exemption Area, as defined in paragraph (a)(17) of this section, the vessel has on board a letter of authorization issued by the Regional Administrator, and complies with the following restrictions:
 - (i) The vessel only fishes for, possesses, or lands Atlantic herring, blueback herring, or mackerel in areas north of 42°20' N lat. and in the areas described in § 648.81(c)(3) and (4); and Atlantic herring, blueback herring, mackerel, or squid in all other areas south of 42°20' N. lat.; and
 - (ii) The vessel is issued a letter of authorization for a minimum of 7 days. The vessel can be issued LOAs for the midwater trawl exempted fishery and the purse seine exempted fishery at the same time.
 - (3) The vessel carries an observer, if requested by the Regional Administrator;
 - (4) The vessel does not fish for, possess or land NE. multispecies, except that a vessel issued a Category A or B Herring Permit and fishing on a declared herring trip, regardless of gear or area fished, or a vessel issued a Category C, D, or E Herring Permit and fishing with midwater trawl gear pursuant to paragraph (d) of this section, may possess and land haddock and other regulated multispecies consistent with the catch caps and possession restrictions in § 648.86(a)(3) and (k).

Such haddock or other regulated NE multispecies may not be sold, purchased, received, traded, bartered, or transferred, or attempted to be sold, purchased, received, traded, bartered, or transferred for, or intended for, human consumption. Haddock or other regulated NE multispecies that are separated out from the herring catch pursuant to § 648.15(d) may not be sold, purchased, received, traded, bartered, or transferred, or attempted to be sold, purchased, received, traded, bartered, or transferred for any purpose. A vessel issued a Category A or B Herring Permit fishing on a declared herring trip, regardless of gear or area fished, or a vessel issued a Category C, D, or E Herring Permit and fishing with midwater trawl gear pursuant to this paragraph (d), may not discard haddock that has been brought on the deck or pumped into the hold;

- (5) To fish for herring under this exemption, a vessel issued a Category A or B Herring Permit fishing on a declared herring trip, or a vessel issued a Category C, D, or E Herring Permit fishing with midwater trawl gear in Management Areas 1A, 1B, and/or 3, as defined in § 648.200(f)(1) and (3), must provide notice of the following information to NMFS at least 48 hr prior to beginning any trip into these areas for the purposes of observer deployment: Vessel name; contact name for coordination of observer deployment; telephone number for contact; the date, time, and port of departure; and
- (6) A vessel issued a Category A or B Herring Permit fishing on a declared herring trip with midwater trawl gear, or a vessel issued a Category C or E Herring Permit and fishing with midwater trawl gear in Management Areas 1A, 1B, and/or 3, as defined at § 648.200(f)(1) and (3), must notify NMFS Office of Law Enforcement through VMS of the time and place of offloading at least 6 hours prior to landing or, if fishing ends less than 6 hours before landing, as soon as the vessel stops catching fish. The Regional Administrator may adjust the prior notification minimum time through publication of a document in the FEDERAL REGISTER consistent with the Administrative Procedure Act.

(7) [Reserved]

- (e) **Purse seine gear exempted fishery.** Fishing may take place throughout the fishing year with purse seine gear of mesh size smaller than the applicable minimum size specified in this section, provided that:
- (1) The vessel uses purse seine gear exclusively;
 - (2) When fishing under this exemption in the GOM/GB Exemption Area, as defined in paragraph (a)(17) of this section, the vessel has on board a letter of authorization issued by the Regional Administrator and complies with the following:
 - (i) The vessel only fishes for, possesses, or lands Atlantic herring, blueback herring, mackerel, or menhaden; and
 - (ii) The vessel carries an observer, if requested by the Regional Administrator;
 - (3) The vessel is issued a letter of authorization for a minimum of 7 days, and cancels it only as instructed by the Regional Administrator. The vessel can be issued LOAs for the midwater trawl exempted fishery and the purse seine exempted fishery at the same time; and
 - (4) The vessel does not fish for, possess, or land NE multispecies, except that vessels that have a Category A or B Herring Permit fishing on a declared herring trip may possess and land haddock or other regulated species consistent with possession restrictions in § 648.86(a)(3) and (k), respectively. Such haddock or other regulated multispecies may not be sold, purchased, received, traded, bartered, or transferred, or attempted to be sold, purchased, received, traded, bartered, or transferred for, or intended for, human consumption. Haddock or other regulated species that are separated out from the herring catch pursuant to § 648.15(d) may not be sold, purchased, received,

traded, bartered, or transferred, or attempted to be sold, purchased, received, traded, bartered, or transferred for any purpose. A vessel issued a Category A or B Herring Permit may not discard haddock that has been brought on the deck or pumped into the hold;

- (5) To fish for herring under this exemption, vessels that have a Category A or B Herring Permit must provide notice to NMFS of the vessel name; contact name for coordination of observer deployment; telephone number for contact; and the date, time, and port of departure, at least 48 hr prior to beginning any trip into these areas for the purposes of observer deployment; and
- (6) All vessels that have a Category A or B Herring Permit must notify NMFS Office of Law Enforcement through VMS of the time and place of offloading at least 6 hours prior to landing or, if fishing ends less than 6 hours before landing, as soon as the vessel stops catching fish. The Regional Administrator may adjust the prior notification minimum time through publication of a document in the FEDERAL REGISTER consistent with the Administrative Procedure Act.

(f) **Mesh measurements** —

- (1) **Gillnets.** Mesh size of gillnet gear shall be measured by lining up 5 consecutive knots perpendicular to the float line and, with a ruler or tape measure, measuring 10 consecutive measures on the diamond, inside knot to inside knot. The mesh shall be the average of the measurements of 10 consecutive measures.
- (2) **All other nets.** With the exception of gillnets, mesh size is measured by an electronic Omega gauge or a wedge-shaped gauge. The Omega gauge has a measuring range of at least 10-300 mm (0.4 inches-11.81 inches), and shall be inserted into the meshes under a pressure or pull of 125 N or 12.75 kg for mesh greater than or equal to 55 mm (2.17 inches) and under a pressure or pull of 50 N or 5.10 kg for mesh less than 55 mm (2.17 inches). The wedge shaped gauge, with a taper of 2 cm (0.79 inches) in 8 cm (3.15 inches), and a thickness of 2.3 mm (0.09 inches), shall be inserted into the meshes under a pressure or pull of 5 kg (11.02 lb) for mesh size less than 120 mm (4.72 inches) and under a pressure or pull of 8 kg (17.64 lb) for mesh size at, or greater, than 120 mm (4.72 inches).
 - (i) **Square-mesh measurement.** Square mesh in the regulated portion of the net is measured by placing the net gauge along the diagonal line that connects the largest opening between opposite corners of the square. The square-mesh size is the average of the measurements of 20 consecutive adjacent meshes from the terminus forward along the long axis of the net. The square mesh is measured at least five meshes away from the lacings of the net.
 - (ii) **Diamond-mesh measurement.** Diamond mesh in the regulated portion of the net is measured running parallel to the long axis of the net. The diamond-mesh size is the average of the measurements of any series of 20 consecutive meshes. The mesh is measured at least five meshes away from the lacings of the net.

(g) **Restrictions on gear and methods of fishing** —

- (1) **Net obstruction or constriction.** Except as provided in paragraph (g)(5) of this section, a fishing vessel subject to minimum mesh size restrictions shall not use, or attach any device or material, including, but not limited to, nets, net strengtheners, ropes, lines, or chafing gear, on the top of a trawl net, except that one splitting strap and one bull rope (if present), consisting of line and rope no more than 3 in (7.6 cm) in diameter, may be used if such splitting strap and/or bull rope does not constrict, in any manner, the top of the trawl net. “The top of the trawl net” means the 50 percent of the net that

(in a hypothetical situation) would not be in contact with the ocean bottom during a tow if the net were laid flat on the ocean floor. For the purpose of this paragraph, head ropes are not considered part of the top of the trawl net.

(2) **Net obstruction or constriction.**

- (i) Except as provided in paragraph (g)(5) of this section, a fishing vessel may not use, or attach, any mesh configuration, mesh construction, or other means on or in the top of the net, as defined in paragraph (g)(1), subject to minimum mesh size restrictions, as defined in paragraph (g)(1) of this section, if it obstructs the meshes of the net in any manner.
- (ii) A fishing vessel may not use a net capable of catching NE multispecies if the bars entering or exiting the knots twist around each other.

(3) **Pair trawl prohibition.** No vessel may fish for NE multispecies while pair trawling, or possess or land NE multispecies that have been harvested by means of pair trawling, except as authorized under paragraph (d) of this section.

(4) **Brush-sweep trawl prohibition.** No vessel may fish for, possess, or land NE multispecies while fishing with, or while in possession of, brush-sweep trawl gear.

(5) **Net strengthener restrictions when fishing for or possessing small-mesh multispecies —**

- (i) **Nets of mesh size less than 2.5 inches (6.4 cm).** A vessel lawfully fishing for small-mesh multispecies in the GOM/GB, SNE, or MA Regulated Mesh Areas, as defined in paragraphs (a), (b), and (c) of this section, with nets of mesh size smaller than 2.5 inches (6.4 cm), as measured by methods specified in paragraph (f) of this section, may use net strengtheners (covers, as described at § 648.23(a)(3)), provided that the net strengthener for nets of mesh size smaller than 2.5 inches (6.4 cm) complies with the provisions specified under § 648.23(a)(3)(iii).
- (ii) **Nets of mesh size equal to or greater than 2.5 inches (6.4 cm) but less than 3 inches (7.6 cm).** A vessel lawfully fishing for small-mesh multispecies in the GOM/GB, SNE, or MA Regulated Mesh Areas, as defined in paragraphs (a), (b), and (c) of this section, with nets with mesh size equal to or greater than 2.5 inches (6.4 cm) but less than 3 inches (7.6 cm) (as measured by methods specified in paragraph (f) of this section, and as applied to the part of the net specified in paragraph (d)(1)(iv) of this section) may use a net strengthener (i.e., outside net), provided the net strengthener does not have an effective mesh opening of less than 6 inches (15.2 cm), diamond or square mesh, as measured by methods specified in paragraph (f) of this section. The inside net (as applied to the part of the net specified in paragraph (d)(1)(iv) of this section) must not be more than 2 ft (61 cm) longer than the outside net, must be the same circumference or smaller than the smallest circumference of the outside net, and must be the same mesh configuration (i.e., both square or both diamond mesh) as the outside net.

(6) **Gillnet requirements to reduce or prevent marine mammal takes —**

- (i) **Requirements for gillnet gear capable of catching NE multispecies to reduce harbor porpoise takes.** In addition to the requirements for gillnet fishing identified in this section, all persons owning or operating vessels in the EEZ that fish with sink gillnet gear and other gillnet gear capable of catching NE multispecies, with the exception of single pelagic gillnets (as described in § 648.81(b)(2)(ii) and (d)(5)(ii)), must comply with the applicable provisions of the Harbor Porpoise Take Reduction Plan found in § 229.33 of this title.

- (ii) **Requirements for gillnet gear capable of catching NE multispecies to prevent large whale takes.** In addition to the requirements for gillnet fishing identified in this section, all persons owning or operating vessels in the EEZ that fish with sink gillnet gear and other gillnet gear capable of catching NE multispecies, with the exception of single pelagic gillnets (as described in § 648.81(b)(2)(ii) and (d)(5)(ii)), must comply with the applicable provisions of the Atlantic Large Whale Take Reduction Plan found in § 229.32 of this title.

(h) **Scallop vessels –**

- (1) **Scallop DAS.** Except as provided in paragraphs (h)(2) and (3) 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).
- (2) **NE Multispecies DAS.** Limited access scallop vessels issued a limited access NE multispecies permit and fishing under a NE multispecies DAS are subject to the gear restrictions specified in this section and may possess and land unlimited amounts of regulated species or ocean pout, unless otherwise restricted by § 648.86. Such vessels may simultaneously fish under a scallop DAS, but are prohibited from using scallop dredge gear on such trips.
- (3) **Scallop dredge exemption areas for general category scallop permits –**
- (i) **GOM Scallop Dredge Exemption Area.** Unless otherwise prohibited in § 648.81, § 648.370, or § 648.371, 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 Category scallop permit, may fish in the GOM Regulated Mesh Area specified in paragraph (a)(1) of this section, when not under a NE multispecies DAS, providing the vessel fishes in the GOM Scallop Dredge Exemption Area and complies with the requirements specified in paragraph (h)(3)(iii) of this section. The GOM Scallop Dredge Fishery Exemption Area is bounded on the west and north by the coastlines of Massachusetts, New Hampshire, and Maine, bounded on the east by the U.S.-Canada Maritime Boundary, and bounded on the south by straight lines connecting the following points in the order stated:

GOM SCALLOP DREDGE EXEMPTION AREA

Point	N lat.	W long.
GOM1	43°58'	(¹)
GOM2	43°58'	67°22'
GOM3	43°41'	68°00'
GOM4	43°12'	69°00'

¹ The intersection of 43°58' N lat. and the U.S.-Canada Maritime boundary.

² The intersection of 42°20' N lat. and the coastline of Massachusetts.

Point	N lat.	W long.
GOM5	42°49.5'	69°40'
GOM6	42°20'	69°40'
GOM7	42°20'	(²)

¹ The intersection of 43°58' N lat. and the U.S.-Canada Maritime boundary.

² The intersection of 42°20' N lat. and the coastline of Massachusetts.

(ii) **Georges Bank/Southern New England Scallop Dredge Exemption Area.** Unless otherwise prohibited in § 648.81, § 648.370, or § 648.371, vessels issued a LAGC scallop permit, including limited access scallop permits that have used up their DAS allocations, may fish in the Georges Bank/Southern New England Scallop Dredge Exemption Area, as defined under paragraph (h)(3)(ii)(A) of this section, when not under a NE multispecies or scallop DAS or on a sector trip, provided the vessel complies with the requirements specified in paragraph (h)(3)(iii) of this section and applicable scallop regulations in subpart D of this part.

(A) **Area definition.** The Georges Bank/Southern New England dredge exemption area is bounded on the north by 42°20' N lat.; bounded on the east by the U.S.-Canada Maritime boundary and the outer limit of the US EEZ; bounded on the west by 72°30' W long. from the outer limit of the US EEZ to the south-facing coastline of Long Island; and bounded on the northwest by the following points, connected as noted in the order listed:

GB/SNE SCALLOP DREDGE EXEMPTION AREA

Point	N lat.	W long.	Note
1	The south-facing coastline of Long Island	72°30' W	From Point 1 to Point 2 following the coastline of Long Island.
2	41°00' N	The southeast-facing coast of Long Island	From Point 2 to Point 3 following a straight line.
3	41°00' N	The 3 nautical mile line, approximately 71°51.841' W long	From Point 3 to Point 4 following the Submerged Lands Act (3 nautical mile) line.
4	41°4.25' N	The 3 nautical mile line, approximately 71°47.384' W long	From Point 4 to Point 5 following a straight line.
5	41°15' N	72°2.25' W	Point 5 represents Race Point, Fishers Island, NY. From Point 5 to Point 6 following a straight line northeasterly through Fishers Island, NY.

Point	N lat.	W long.	Note
6	41°18.2' N	71°51.5' W	Point 6 represents Watch Hill, RI. From Point 6 to Point 7 following the coastlines of Rhode Island and Massachusetts.
7	42°20' N	The coastline of Massachusetts	

(B) [Reserved]

(iii) **Requirements.**

(A) A vessel fishing in the Scallop Dredge Fishery Exemption Areas specified in paragraphs (h)(3)(i) and (ii) of this section may not fish for, possess on board, or land any species of fish other than Atlantic sea scallops and up to 50 lb (23 kg) tail weight or 146 lb (66 kg) whole weight of monkfish per trip.

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

(C) The exemption does not apply to the Cashes Ledge Closure Area or the Western GOM Area Closure specified in § 648.81(a)(3) and (4), respectively.

(i) **State waters winter flounder exemption.** Any vessel issued a NE multispecies permit may fish for, possess, or land winter flounder while fishing with nets of mesh smaller than the minimum size specified in paragraphs (a)(2), (b)(2), and (c)(2) of this section, provided that:

- (1) The vessel has on board a certificate approved by the Regional Administrator and issued by the state agency authorizing the vessel's participation in the state's winter flounder fishing program and is in compliance with the applicable state laws pertaining to minimum mesh size for winter flounder.
- (2) Fishing is conducted exclusively in the waters of the state from which the certificate was obtained.
- (3) The state's winter flounder plan has been approved by the Commission as being in compliance with the Commission's winter flounder fishery management plan.
- (4) The state elects, by a letter to the Regional Administrator, to participate in the exemption program described by this section (for a particular fishing year).
- (5) The vessel does not enter or transit the EEZ.
- (6) The vessel does not enter or transit the waters of another state, unless such other state is participating in the exemption program described by this section and the vessel is enrolled in that state's program.
- (7) The vessel, when not fishing under the DAS program, does not fish for, possess, or land more than 500 lb (226.8 kg) of winter flounder, and has at least one standard tote on board.

- (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 and permitted to fish for skates may also possess and land skates in amounts not to exceed 10 percent, by weight, of all other species on board.

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Editorial Note: For FEDERAL REGISTER citations affecting § 648.80, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.govinfo.gov.

§ 648.81 NE multispecies year-round and seasonal closed areas.

(a) Year-round groundfish closed areas —

- (1) **Restrictions.** No fishing vessel or person on a fishing vessel may enter, fish, or be in, and no fishing gear capable of catching NE multispecies may be used or on board a vessel in, the, Cashes Ledge, Western Gulf of Maine, or Closed Area II Closure Areas, unless otherwise allowed by or exempted under this part. Charts of the areas described in this section are available from the Regional Administrator upon request.
- (2) **Exemptions.** Unless restricted by the requirements of subpart P of this part or elsewhere in this part, paragraph (a)(1) of this section does not apply to a fishing vessel or person on a fishing vessel when fishing under the following conditions:
- (i) Fishing with or using exempted gear as defined under this part, except for pelagic gillnet gear capable of catching NE multispecies, unless fishing with a single pelagic gillnet not longer than 300 ft (91.4 m) and not greater than 6 ft (1.83 m) deep, with a maximum mesh size of 3 inches (7.6 cm), provided that:
 - (A) The net is attached to the boat and fished in the upper two-thirds of the water column;
 - (B) The net is marked with the owner's name and vessel identification number;
 - (C) No regulated species or ocean pout are retained; and
 - (D) No other gear capable of catching NE multispecies is on board;
 - (ii) Fishing in the Midwater Trawl Gear Exempted Fishery as specified in § 648.80(d);
 - (iii) Fishing in the Purse Seine Gear Exempted Fishery as specified in § 648.80(e);
 - (iv) Fishing under charter/party or recreational regulations specified in § 648.89, provided that:
 - (A) A letter of authorization issued by the Regional Administrator is onboard the vessel, which is valid from the date of enrollment until the end of the fishing year;
 - (B) No harvested or possessed fish species managed by the NEFMC or MAFMC are sold or intended for trade, barter or sale, regardless of where the fish are caught;
 - (C) Only rod and reel or handline gear is on board the vessel; and

- (D) No NE multispecies DAS are used during the entire period for which the letter of authorization is valid.

- (3) **Cashes Ledge Closure Area.** The Cashes Ledge Closure Area is defined by straight lines connecting the following points in the order stated:

CASHES LEDGE CLOSURE AREA

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

- (4) **Western Gulf of Maine Closure Area.** The Western Gulf of Maine Closure Area is defined by straight lines connecting the following points in the order stated:

WESTERN GULF OF MAINE CLOSURE AREA

Point	N latitude	W longitude
WGM1	43°15'	70°15'
WGM2	42°15'	70°15'
WGM3	42°15'	70°00'
WGM4	43°15'	70°00'
WGM1	43°15'	70°15'

- (5) **Closed Area II Closure Area.**

- (i) The Closed Area II Closure Area is defined by straight lines, unless otherwise noted, connecting the following points in the order stated:

CLOSED AREA II CLOSURE AREA

Point	N lat.	W long.	Note
CAII1	41°00'	67°20'	
CAII2	41°00'	66°35.8'	
CAII3	41°18.45'	(¹)	(²)
CAII4	(³)	67°20'	(²)
CAII5	42°22'	67°20'	
CAII1	41°00'	67°20'	

¹ The intersection of 41°18.45' N lat. and the U.S.-Canada Maritime Boundary, approximately 41°18.45' N lat. and 66°24.89' W long.

² From Point CAII3 to Point CAII4 along the U.S.-Canada Maritime Boundary.

³ The intersection of 67°20' W long. And the U.S.-Canada Maritime Boundary, approximately 42°22.06' N lat. and 67°20' W long.

- (ii) Unless otherwise restricted under the EFH Closure(s) specified in paragraph (h) of this section, paragraph (a)(5)(i) of this section does not apply to persons on fishing vessels or fishing vessels—
- (A) Fishing with gears as described in paragraph (a)(2) this section.
 - (B) Fishing with tuna purse seine gear outside of the portion of Closed Area II known as the Habitat Area of Particular Concern, as described in § 648.370(g).
 - (C) Fishing in the CA II Yellowtail Flounder/Haddock SAP or the Eastern U.S./Canada Haddock SAP Program as specified in § 648.85(b)(3)(ii) or (b)(7)(ii), respectively.
 - (D) Transiting the area, provided the vessel's fishing gear is stowed and not available for immediate use as defined in § 648.2; and
 - (1) The operator has determined, and a preponderance of available evidence indicates, that there is a compelling safety reason; or
 - (2) The vessel has declared into the Eastern U.S./Canada Area as specified in § 648.85(a)(3)(ii) and is transiting CA II in accordance with the provisions of § 648.85(a)(3)(vii).
 - (E) Fishing for scallops within the Closed Area II Access Area defined in § 648.59(c)(3), during the season specified in § 648.59(c)(4), and pursuant to the provisions specified in § 648.60.

- (b) *Gulf of Maine spawning groundfish closures —*

- (1) **Restrictions.** Unless allowed in this part, no fishing vessel or person on a fishing vessel may enter, fish, or be in, and no fishing gear capable of catching NE multispecies may be used or on board a vessel in, the spawning closure areas described in paragraphs (b)(3) and (4) of this section, during the times specified in this section. Charts depicting the areas defined here are available from the RA upon request.
- (2) **Exemptions.** Paragraph (b)(1) of this section does not apply to a fishing vessel or person on a fishing vessel:
 - (i) That has not been issued a NE multispecies permit that is fishing exclusively in state waters;
 - (ii) That is fishing with or using exempted gear as defined under this part, excluding pelagic gillnet gear capable of catching NE multispecies, except for a vessel fishing with a single pelagic gillnet not longer than 300 ft (91.4 m) and not greater than 6 ft (1.83 m) deep, with a maximum mesh size of 3 inches (7.6 cm), provided:
 - (A) The net is attached to the vessel and fished in the upper two-thirds of the water column;
 - (B) The net is marked with the vessel owner's name and vessel identification number;
 - (C) No regulated species or ocean pout are retained; and
 - (D) No other gear capable of catching NE multispecies is on board;
 - (iii) That is fishing as a charter/party or recreational fishing vessel, provided that:
 - (A) With the exception of tuna, fish harvested or possessed by the vessel are not sold or intended for trade, barter, or sale, regardless of where the species are caught;
 - (B) Any gear other than pelagic hook and line gear, as defined in this part, is properly stowed and not available for immediate use as defined in § 648.2; and
 - (C) No regulated species or ocean pout are retained; and
 - (iv) That is transiting pursuant to paragraph (e) of this section.
- (3) **GOM Cod Spawning Protection Area.** Except as specified in paragraph (b)(2) of this section, from April through June of each year, no fishing vessel or person on a fishing vessel may enter, fish, or be in, and no fishing gear capable of catching NE multispecies may be used or on board a vessel in, the GOM Cod Spawning Protection Area, as defined by straight lines connecting the following points in the order stated:

GOM COD SPAWNING PROTECTION AREA

Point	N latitude	W longitude
CSPA1	42°50.95'	70°32.22'
CSPA2	42°47.65'	70°35.64'
CSPA3	42°54.91'	70°41.88'
CSPA4	42°58.27'	70°38.64'

Point	N latitude	W longitude
CSPA1	42°50.95'	70°32.22'

- (4) **Winter Massachusetts Bay Spawning Protection Area.** Except as specified in paragraph (b)(2) of this section, from November 1 through January 31 of each year, no fishing vessel or person on a fishing vessel may enter, fish, or be in, and no fishing gear capable of catching NE multispecies may be used or be on board a vessel in, the Massachusetts Bay Protection Area, as defined on the west and south by the outer limit of Massachusetts waters and on the northeast by a straight line connecting the following points, which fall along the Massachusetts state waters boundary:

WINTER MASSACHUSETTS BAY SPAWNING PROTECTION AREA

Point	N latitude	W longitude
WSPA1	42° 23.61'	70° 39.21'
WSPA2	42° 07.68'	70° 26.79'

- (5) **Spring Massachusetts Bay Spawning Protection Area.**

- (i) From April 15 through April 30 of each year, no fishing vessel or person on a fishing vessel may enter, fish, or be in, and no fishing gear capable of catching NE multispecies may be used or on board a vessel in the thirty-minute block defined by straight lines, unless otherwise noted, connecting the following points in the order stated:

SPRING MASSACHUSETTS BAY SPAWNING PROTECTION AREA

Point	N latitude	W longitude	Note
SSPA1	42°30'	(¹)	
SSPA2	42°30'	70°30'	
SSPA3	42°00'	70°30'	

¹ The intersection of 42°30' N lat. and the coastline at Marblehead, MA.

² The intersection of 42°00' N lat. and the coastline at Kingston, MA.

³ From Point SSPA4 to Point SSPA5 following the coastline of Massachusetts.

⁴ The intersection of 71°00' W long. and the coastline at Quincy, MA.

⁵ The intersection of 71°00' W long. and the northernmost coastline at East Boston, Boston, MA.

⁶ From Point SSPA6 back to Point SSPA 1 following the coastline of Massachusetts.

Point	N latitude	W longitude	Note
SSPA4	42°00'	(²)	(³)
SSPA5	(⁴)	71°00'	(³)
SSPA6	(⁵)	71°00'	(⁶)
SSPA1	42°30'	(¹)	(⁶)

¹ The intersection of 42°30' N lat. and the coastline at Marblehead, MA.

² The intersection of 42°00' N lat. and the coastline at Kingston, MA.

³ From Point SSPA4 to Point SSPA5 following the coastline of Massachusetts.

⁴ The intersection of 71°00' W long. and the coastline at Quincy, MA.

⁵ The intersection of 71°00' W long. and the northernmost coastline at East Boston, Boston, MA.

⁶ From Point SSPA6 back to Point SSPA 1 following the coastline of Massachusetts.

- (ii) Unless otherwise restricted in this part, the Spring Massachusetts Bay Spawning Protection Area closure does not apply to a fishing vessel or person on a fishing vessel that meets the criteria in paragraphs (d)(5)(ii) through (vi) and (x) of this section (listed under the exemptions for the GOM Cod Protection Closures). This includes recreational vessels meeting the criteria specified in paragraphs (d)(5)(v)(A) through (D) of this section.

(c) Georges Bank Spawning Groundfish Closures –

- (1) **Restrictions.** Unless otherwise allowed in this part, no fishing vessel or person on a fishing vessel may enter, fish, or be in, and no fishing gear capable of catching NE multispecies may be used on board a vessel in the spawning closure areas described in paragraphs (b)(3) and (4) of this section, and during the times specified in this section. Charts depicting the areas defined here are available from the RA upon request.
- (2) **Exemptions.** Paragraph (c)(1) of this section does not apply to a fishing vessel or person on a fishing vessel:
 - (i) That is fishing with or using exempted gear as defined under this part, excluding pelagic gillnet gear capable of catching NE multispecies, except for vessels fishing with a single pelagic gillnet not longer than 300 ft (91.4 m) and not greater than 6 ft (1.83 m) deep, with a maximum mesh size of 3 inches (7.6 cm), provided:
 - (A) The net is attached to the vessel and fished in the upper two-thirds of the water column;
 - (B) The net is marked with the vessel owner's name and vessel identification number;
 - (C) No regulated species or ocean pout are retained; and
 - (D) No other gear capable of catching NE multispecies is on board.
 - (ii) That is fishing for scallops consistent with the requirements of the scallop fishery management plan, including rotational access program requirements specified in § 648.59.
 - (iii) That is fishing in the mid-water trawl exempted fishery.
 - (iv) That is transiting pursuant to the requirements described in § 648.2.

- (3) **Closed Area I North.** Except as specified in paragraph (c)(2) of this section, from February 1 through April 15 of each year, no fishing vessel or person on a fishing vessel may enter, fish, or be in; and no fishing gear capable of catching NE multispecies may be used or on board a vessel in, Closed Area I North, as defined by straight lines connecting the following points in the order stated:

CLOSED AREA I—NORTH

Point	N lat.	W long.
CIN1	41°30'	69°23'
CIN2	41°30'	68°30'
CIN3	41°26'	68°30'
CIN4	41°04'	69°01'
CIN1	41°30'	69°23'

- (4) **Closed Area II.** Except as specified in paragraph (c)(2) of this section, from February 1 through April 15 of each year, no fishing vessel or person on a fishing vessel may enter, fish, or be in, and no fishing gear capable of catching NE multispecies may be used or on board a vessel in, Closed Area II, as defined by straight lines, unless otherwise noted, connecting the following points in the order stated:

CLOSED AREA II

Point	N lat.	W long.	Note
CAII1	41°00'	67°20'	
CAII2	41°00'	66°35.8'	
CAII3	41°18.45	(¹)	(²)
CAII4	(³)	67°20'	(²)
CAII5	42°22'	67°20'	
CAII1	41°00'	67°20'	

¹ The intersection of 41°18.45' N lat. and the U.S.-Canada Maritime Boundary, approximately 41°18.45' N lat. and 66°24.89' W long.

² From Point CAII3 to Point CAII4 along the U.S.-Canada Maritime Boundary.

³ The intersection of 67°20' W long. and the U.S.-Canada Maritime Boundary, approximately 42°22.06' N lat. and 67°20' W long.

(d) GOM Cod Protection Closures —

- (1) **Restrictions.** Unless otherwise allowed in this part, no fishing vessel or person on a fishing vessel may enter, fish, or be in, and no fishing gear capable of catching NE multispecies may be used or on board a vessel in, GOM Cod Protection Closures I through V as described, and during the times specified, in paragraphs (d)(4)(i) through (v) of this section.
- (2) **Review of closure.** The New England Fishery Management Council shall review the GOM Cod Protection Closures Areas specified in this section when the spawning stock biomass for GOM cod reaches the minimum biomass threshold specified for the stock (50 percent of SSB_{MSY}).
- (3) **Seasons.**
 - (i) GOM Cod Protection Closure I is in effect from May 1 through May 31.
 - (ii) GOM Cod Protection Closure II is in effect from June 1 through June 30.
 - (iii) GOM Cod Protection Closure III is in effect from November 1 through January 31.
 - (iv) GOM Cod Protection Closure IV is in effect from October 1 through October 31.
 - (v) GOM Cod Protection Closure V is in effect from March 1 through March 31.
- (4) **GOM Cod Protection Closure Areas.** Charts depicting these areas are available from the Regional Administrator upon request.
 - (i) **GOM Cod Protection Closure I.** GOM Cod Protection Closure I is the area bounded by the following coordinates connected in the order stated by straight lines, unless otherwise noted:

GOM COD PROTECTION CLOSURE I
[MAY 1-MAY 31]

Point	N latitude	W longitude
CPCI 1	43°30' N	(¹)
CPCI 2	43°30' N	69°30' W
CPCI 3	43°00' N	69°30' W
CPCI 4	43°00' N	70°00' W
CPCI 5	42°30' N	70°00' W
CPCI 6	42°30' N	70°30' W
CPCI 7	42°20' N	70°30' W
CPCI 8	42°20' N	(²) (³)

¹ The intersection of 43°30' N latitude and the coastline of Maine.

² The intersection of 42°20' N latitude and the coastline of Massachusetts.

³ From Point 8 back to Point 1 following the coastline of the United States.

Point	N latitude	W longitude
CPCI 1	43°30' N	(¹) (³)

¹ The intersection of 43°30' N latitude and the coastline of Maine.

² The intersection of 42°20' N latitude and the coastline of Massachusetts.

³ From Point 8 back to Point 1 following the coastline of the United States.

- (ii) **GOM Cod Protection Closure II.** GOM Cod Protection Closure II is the area bounded by the following coordinates connected in the order stated by straight lines, unless otherwise noted:

GOM COD PROTECTION CLOSURE II [JUNE 1-JUNE 30]

Point	N latitude	W longitude
CPCII 1	(¹)	69°30' W
CPCII 2	43°30' N	69°30' W
CPCII 3	43°30' N	70°00' W
CPCII 4	42°30' N	70°00' W
CPCII 5	42°30' N	70°30' W
CPCII 6	42°20' N	70°30' W
CPCII 7	42°20' N	(²)(³)
CPCII 8	42°30' N	(⁴)(³)
CPCII 9	42°30' N	70°30' W
CPCII 10	43°00' N	70°30' W
CPCII 11	43°00' N	(⁵) (⁶)

¹ The intersection of 69°30' W longitude and the coastline of Maine.

² The intersection of 42°20' N latitude and the coastline of Massachusetts.

³ From Point 7 to Point 8 following the coastline of Massachusetts.

⁴ The intersection of 42°30' N latitude and the coastline of Massachusetts.

⁵ The intersection of 43°00' N latitude and the coastline of New Hampshire.

⁶ From Point 11 back to Point 1 following the coastlines of New Hampshire and Maine.

Point	N latitude	W longitude
CPCII 1	(¹)	69°30' W (⁶)

¹ The intersection of 69°30' W longitude and the coastline of Maine.

² The intersection of 42°20' N latitude and the coastline of Massachusetts.

³ From Point 7 to Point 8 following the coastline of Massachusetts.

⁴ The intersection of 42°30' N latitude and the coastline of Massachusetts.

⁵ The intersection of 43°00' N latitude and the coastline of New Hampshire.

⁶ From Point 11 back to Point 1 following the coastlines of New Hampshire and Maine.

(iii) **GOM Cod Protection Closure III.** GOM Cod Protection Closure III is the area bounded by the following coordinates connected in the order stated by straight lines, unless otherwise noted:

GOM COD PROTECTION CLOSURE III [NOVEMBER 1-JANUARY 31]

Point	N latitude	W longitude
CPCIII 1	42°30' N	(¹)
CPCIII 2	42°30' N	70°30' W
CPCIII 3	42°15' N	70°30' W
CPCIII 4	42°15' N	70°24' W
CPCIII 5	42°00' N	70°24' W
CPCIII 6	42°00' N	(²) (³)

¹ The intersection of 42°30' N latitude and the Massachusetts coastline.

² The intersection of 42°00' N latitude and the mainland Massachusetts coastline at Kingston, MA.

³ From Point 6 back to Point 1 following the coastline of Massachusetts.

Point	N latitude	W longitude
CPCIII 1	42°30' N	(¹) (³)

¹ The intersection of 42°30' N latitude and the Massachusetts coastline.

² The intersection of 42°00' N latitude and the mainland Massachusetts coastline at Kingston, MA.

³ From Point 6 back to Point 1 following the coastline of Massachusetts.

- (iv) **GOM Cod Protection Closure IV.** GOM Cod Protection Closure IV is the area bounded by the following coordinates connected in the order stated by straight lines, unless otherwise noted:

GOM COD PROTECTION CLOSURE IV [OCTOBER 1-OCTOBER 31]

Point	N latitude	W longitude
CPCIV 1	42°30' N	(¹)
CPCIV 2	42°30' N	70°00' W
CPCIV 3	42°00' N	70°00' W
CPCIV 4	42°00' N	(²) (³)
CPCIV 1	42°30' N	(¹) (³)

¹ The intersection of 42°30' N latitude and the Massachusetts coastline.

² The intersection of 42°00' N latitude and the mainland Massachusetts coastline at Kingston, MA.

³ From Point 4 back to Point 1 following the coastline of Massachusetts.

- (v) **GOM Cod Protection Closure V.** GOM Cod Protection Closure V is the area bounded by the following coordinates connected in the order stated by straight lines:

GOM COD PROTECTION CLOSURE V [MARCH 1-MARCH 31]

Point	N latitude	W longitude
CPCV 1	42°30' N	70°00' W
CPCV 2	42°30' N	68°30' W
CPCV 3	42°00' N	68°30' W
CPCV 4	42°00' N	70°00' W

Point	N latitude	W longitude
CPCV 1	42°30' N	70°00' W

- (5) **Exemptions.** The GOM cod protection closures specified in this section do not apply to a fishing vessel or person on board a fishing vessel under any of the following conditions:
- (i) No multispecies permit has been issued and the vessel is fishing exclusively in state waters;
 - (ii) Fishing with or using exempted gear as defined under this part, except for pelagic gillnet gear capable of catching NE multispecies, unless fishing with a single pelagic gillnet not longer than 300 ft (91.4 m) and not greater than 6 ft (1.83 m) deep, with a maximum mesh size of 3 inches (7.6 cm), provided that:
 - (A) The net is attached to the boat and fished in the upper two-thirds of the water column;
 - (B) The net is marked with the owner's name and vessel identification number;
 - (C) No regulated species are retained; and
 - (D) No other gear capable of catching NE multispecies is on board;
 - (iii) Fishing in the Midwater Trawl Gear Exempted Fishery as specified in § 648.80(d);
 - (iv) Fishing in the Purse Seine Gear Exempted Fishery as specified in § 648.80(e);
 - (v) Fishing under charter/party or recreational regulations specified in § 648.89, provided that:
 - (A) A vessel fishing under charter/party regulations in a GOM cod protection closure described under paragraph (f)(4) of this section, has on board a letter of authorization issued by the Regional Administrator that is valid from the date of enrollment through the duration of the closure or 3 months duration, whichever is greater;
 - (B) No harvested or possessed fish species managed by the NEFMC or MAFMC are sold or intended for trade, barter or sale, regardless of where the fish are caught;
 - (C) Only rod and reel or handline gear is on board; and
 - (D) No NE multispecies DAS are used during the entire period for which the letter of authorization is valid;
 - (vi) Fishing with scallop dredge gear 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;
 - (vii) Fishing in the Raised Footrope Trawl Exempted Whiting Fishery, as specified in § 648.80(a)(15), or in the Small Mesh Area II Exemption Area, as specified in § 648.80(a)(9);
 - (viii) Fishing on a sector trip, as defined in this part, and in the GOM Cod Protection Closures IV or V, as specified in paragraphs (f)(4)(iv) and (v) of this section; or

- (ix) Fishing under the provisions of a Northeast multispecies Handgear A permit, as specified at § 648.82(b)(6), and in the GOM Cod Protection Closures IV or V, as specified in paragraphs (f)(4)(iv) and (v) of this section.
- (x) Transiting the area, provided it complies with the requirements specified in paragraph (e) of this section.

(e) **Transiting.**

- (1) Unless otherwise restricted or specified in this paragraph (e), a vessel may transit the Cashes Ledge Closed Area, the Western GOM Closure Area, the GOM Cod Protection Closures, and the GOM Cod Spawning Protection Area, as defined in paragraphs (a)(3) and (4), (d)(4), and (b)(3), of this section, respectively, provided that its gear is stowed and not available for immediate use as defined in § 648.2.
- (2) Private recreational or charter/party vessels fishing under the Northeast multispecies provisions specified at § 648.89 may transit the GOM Cod Spawning Protection Area, as defined in paragraph (b)(3) of this section, provided all bait and hooks are removed from fishing rods, and any regulated species on board have been caught outside the GOM Cod Spawning Protection Area and has been gutted and stored.

(f) **Restricted Gear Areas —**

- (1) **Restricted Gear Area Seasons.** No fishing vessel with mobile gear on board, or person on a fishing vessel with mobile gear on board, may fish or be in the specified Restricted Gear Areas, unless transiting, during the seasons below. No fishing vessel with lobster pot gear on board, or person on a fishing vessel with lobster pot gear on board, may fish in, and no lobster pot gear may be deployed or remain in the specified Restricted Gear Areas. Vessels with lobster pot gear on board may transit during the seasons listed in the table in this paragraph (f)(1).

	Mobile gear	Lobster pot gear
Restricted Gear Area I	October 1-June 15	June 16-September 30.
Restricted Gear Area II	November 27-June 15	June 16-November 26.
Restricted Gear Area III	June 16-November 26	January 1-April 30.
Restricted Gear Area IV	June 16-September 30	n/a.

- (2) **Transiting.** Vessels with mobile gear may transit this area, provided that all mobile gear is on board the vessel while inside the area, and is stowed and not available for immediate use as defined in § 648.2.

- (3) **Restricted Gear Area I.** Restricted Gear Area I is defined by the following points connected in the order listed by straight lines (points followed by an asterisk are shared with an adjacent Restricted Gear Area):

Point	Latitude	Longitude	Note
AA	40°02.75' N	70°16.10' W	(*)
AB	40°02.45' N	70°14.10' W	(*)
AC	40°05.20' N	70°10.90' W	(*)
AD	40°03.75' N	70°10.15' W	(*)
AE	40°00.70' N	70°08.70' W	(*)
AF	39°59.20' N	70°04.90' W	(*)
AG	39°58.25' N	70°03.00' W	(*)
AH	39°56.90' N	69°57.45' W	(*)
AI	39°57.40' N	69°55.90' W	(*)
AJ	39°57.55' N	69°54.05' W	(*)
AK	39°56.70' N	69°53.60' W	(*)
AL	39°55.75' N	69°41.40' W	(*)
AM	39°56.20' N	69°40.20' W	(*)
AN	39°58.80' N	69°38.45' W	(*)
AO	39°59.15' N	69°37.30' W	(*)
AP	40°00.90' N	69°37.30' W	(*)
AQ	40°00.65' N	69°36.50' W	(*)
AR	39°57.85' N	69°35.15' W	(*)
AS	39°56.80' N	69°34.10' W	(*)
AT	39°56.50' N	69°26.35' W	(*)
AU	39°56.75' N	69°24.40' W	(*)
AV	39°57.80' N	69°20.35' W	(*)
AW	40°00.05' N	69°14.60' W	(*)
AX	40°02.65' N	69°11.15' W	(*)
AY	40°02.00' N	69°08.35' W	(*)
AZ	40°02.65' N	69°05.60' W	(*)
BA	40°04.10' N	69°03.90' W	(*)
BB	40°05.65' N	69°03.55' W	(*)
BC	40°08.45' N	69°03.60' W	(*)
BD	40°09.75' N	69°04.15' W	(*)
BE	40°10.25' N	69°04.40' W	(*)
BF	40°11.60' N	69°05.40' W	(*)
BG	40°11.00' N	69°03.80' W	(*)
BH	40°08.90' N	69°01.75' W	(*)
BI	40°05.30' N	69°01.10' W	(*)
BJ	40°05.20' N	69°00.50' W	(*)

Point	Latitude	Longitude	Note
BK	40°04.35' N	69°00.50' W	(*)
BL	40°03.65' N	69°00.00' W	(*)
BM	40°03.60' N	68°57.20' W	(*)
BN	40°05.70' N	68°52.40' W	(*)
BO	40°08.10' N	68°51.00' W	(*)
BP	40°08.70' N	68°49.60' W	(*)
BQ	40°06.90' N	68°46.50' W	(*)
BR	40°07.20' N	68°38.40' W	(*)
BS	40°07.90' N	68°36.00' W	(*)
BT	40°06.40' N	68°35.80' W	
BU	40°05.25' N	68°39.30' W	
BV	40°05.40' N	68°44.50' W	
BW	40°06.00' N	68°46.50' W	
BX	40°07.40' N	68°49.60' W	
BY	40°05.55' N	68°49.80' W	
BZ	40°03.90' N	68°51.70' W	
CA	40°02.25' N	68°55.40' W	
CB	40°02.60' N	69°00.00' W	
CC	40°02.75' N	69°00.75' W	
CD	40°04.20' N	69°01.75' W	
CE	40°06.15' N	69°01.95' W	
CF	40°07.25' N	69°02.00' W	
CG	40°08.50' N	69°02.25' W	
CH	40°09.20' N	69°02.95' W	
CI	40°09.75' N	69°03.30' W	
CJ	40°09.55' N	69°03.85' W	
CK	40°08.40' N	69°03.40' W	
CL	40°07.20' N	69°03.30' W	
CM	40°06.00' N	69°03.10' W	
CN	40°05.40' N	69°03.05' W	
CO	40°04.80' N	69°03.05' W	
CP	40°03.55' N	69°03.55' W	
CQ	40°01.90' N	69°03.95' W	
CR	40°01.00' N	69°04.40' W	
CS	39°59.90' N	69°06.25' W	
CT	40°00.60' N	69°10.05' W	
CU	39°59.25' N	69°11.15' W	
CV	39°57.45' N	69°16.05' W	
CW	39°56.10' N	69°20.10' W	

Point	Latitude	Longitude	Note
CX	39°54.60' N	69°25.65' W	
CY	39°54.65' N	69°26.90' W	
CZ	39°54.80' N	69°30.95' W	
DA	39°54.35' N	69°33.40' W	
DB	39°55.00' N	69°34.90' W	
DC	39°56.55' N	69°36.00' W	
DD	39°57.95' N	69°36.45' W	
DE	39°58.75' N	69°36.30' W	
DF	39°58.80' N	69°36.95' W	
DG	39°57.95' N	69°38.10' W	
DH	39°54.50' N	69°38.25' W	
DI	39°53.60' N	69°46.50' W	
DJ	39°54.70' N	69°50.00' W	
DK	39°55.25' N	69°51.40' W	
DL	39°55.20' N	69°53.10' W	
DM	39°54.85' N	69°53.90' W	
DN	39°55.70' N	69°54.90' W	
DO	39°56.15' N	69°55.35' W	
DP	39°56.05' N	69°56.25' W	
DQ	39°55.30' N	69°57.10' W	
DR	39°54.80' N	69°58.60' W	
DS	39°56.05' N	70°00.65' W	
DT	39°55.30' N	70°02.95' W	
DU	39°56.90' N	70°11.30' W	
DV	39°58.90' N	70°11.50' W	
DW	39°59.60' N	70°11.10' W	
DX	40°01.35' N	70°11.20' W	
DY	40°02.60' N	70°12.00' W	
DZ	40°00.40' N	70°12.30' W	
EA	39°59.75' N	70°13.05' W	
EB	39°59.30' N	70°14.00' W	(*)

Point	Latitude	Longitude	Note
AA	40°02.75' N	70°16.10' W	(*)

- (4) **Restricted Gear Area II.** Restricted Gear Area II is defined by the following points connected in the order listed by straight lines (points followed by an asterisk are shared with an adjacent Restricted Gear Area):

Point	N latitude	W longitude	Note
AA	40°02.75'	70°16.10'	(*)
EB	39°59.30'	70°14.00'	(*)
EC	39°58.85'	70°15.20'	
ED	39°59.30'	70°18.40'	
EE	39°58.10'	70°19.40'	
EF	39°57.00'	70°19.85'	
EG	39°57.55'	70°21.25'	
EH	39°57.50'	70°22.80'	
EI	39°57.10'	70°25.40'	
EJ	39°57.65'	70°27.05'	
EK	39°58.58'	70°27.70'	
EL	40°00.65'	70°28.80'	
EM	40°02.20'	70°29.15'	
EN	40°01.00'	70°30.20'	
EO	39°58.58'	70°31.85'	
EP	39°57.05'	70°34.35'	
EQ	39°56.42'	70°36.80'	
ER	39°58.15'	70°48.00'	
ES	39°58.30'	70°51.10'	
ET	39°58.10'	70°52.25'	
EU	39°58.05'	70°53.55'	
EV	39°58.40'	70°59.60'	
EW	39°59.80'	71°01.05'	
EX	39°58.20'	71°05.85'	
EY	39°57.45'	71°12.15'	
EZ	39°57.20'	71°15.00'	
FA	39°56.30'	71°18.95'	
FB	39°51.40'	71°36.10'	
FC	39°51.75'	71°41.50'	
FD	39°50.05'	71°42.50'	

Point	N latitude	W longitude	Note
FE	39°50.00'	71°45.00'	
FF	39°48.95'	71°46.05'	
FG	39°46.60'	71°46.10'	
FH	39°43.50'	71°49.40'	
FI	39°41.30'	71°55.00'	
FJ	39°39.00'	71°55.60'	
FK	39°36.72'	71°58.25'	
FL	39°35.15'	71°58.55'	
FM	39°34.50'	72°00.75'	
FN	39°32.20'	72°02.25'	
FO	39°32.15'	72°04.10'	
FP	39°28.50'	72°06.50'	
FQ	39°29.00'	72°09.25'	
FR	39°29.75'	72°09.80'	(*)
FS	39°32.65'	72°06.10'	(*)
FT	39°35.45'	72°02.00'	(*)
FU	39°41.15'	71°57.10'	(*)
FV	39°46.95'	71°49.00'	(*)
FW	39°53.10'	71°42.70'	(*)
FX	39°52.60'	71°40.35'	(*)
FY	39°53.10'	71°36.10'	(*)
FZ	39°57.50'	71°20.60'	(*)
GA	40°00.70'	71°19.80'	(*)
GB	39°59.30'	71°18.40'	(*)
GC	40°02.00'	71°01.30'	(*)
GD	40°00.50'	70°57.60'	(*)
GE	40°00.10'	70°45.10'	(*)
GF	39°58.90'	70°38.65'	(*)
GG	39°59.15'	70°34.45'	(*)
GH	40°00.55'	70°32.10'	(*)
GI	40°03.85'	70°28.75'	(*)
GJ	39°59.75'	70°25.50'	(*)
GK	39°59.80'	70°21.75'	(*)
GL	40°00.70'	70°18.60'	(*)

Point	N latitude	W longitude	Note
AA	40°02.75'	70°16.10'	(*)

- (5) **Restricted Gear Area III.** Restricted Gear Area III is defined by the following points connected in the order listed by straight lines (points followed by an asterisk are shared with an adjacent Restricted Gear Area):

Point	Latitude	Longitude	Note
AA	40°02.75' N	70°16.10' W	(*)
GL	40°00.70' N	70°18.60' W	(*)
GK	39°59.80' N	70°21.75' W	(*)
GJ	39°59.75' N	70°25.50' W	(*)
GI	40°03.85' N	70°28.75' W	(*)
GH	40°00.55' N	70°32.10' W	(*)
GG	39°59.15' N	70°34.45' W	(*)
GF	39°58.90' N	70°38.65' W	(*)
GE	40°00.10' N	70°45.10' W	(*)
GD	40°00.50' N	70°57.60' W	(*)
GC	40°02.00' N	71°01.30' W	(*)
GB	39°59.30' N	71°18.40' W	(*)
GA	40°00.70' N	71°19.80' W	(*)
FZ	39°57.50' N	71°20.60' W	(*)
FY	39°53.10' N	71°36.10' W	(*)
FX	39°52.60' N	71°40.35' W	(*)
FW	39°53.10' N	71°42.70' W	(*)
FV	39°46.95' N	71°49.00' W	(*)
FU	39°41.15' N	71°57.10' W	(*)
FT	39°35.45' N	72°02.00' W	(*)
FS	39°32.65' N	72°06.10' W	(*)
FR	39°29.75' N	72°09.80' W	(*)
GM	39°33.65' N	72°15.00' W	
GN	39°47.20' N	72°01.60' W	
GO	39°53.75' N	71°52.25' W	
GP	39°55.85' N	71°45.00' W	
GQ	39°55.60' N	71°41.20' W	
GR	39°57.90' N	71°28.70' W	
GS	40°10.70' N	71°10.25' W	
GT	40°12.75' N	70°55.05' W	

Point	Latitude	Longitude	Note
GU	40°11.05' N	70°45.80' W	
GV	40°06.50' N	70°40.05' W	
GW	40°05.60' N	70°17.70' W	
AA	40°02.75' N	70°16.10' W	(*)

- (6) **Restricted Gear Area IV.** Restricted Gear Area IV is defined by the following points connected in the order listed by straight lines (points followed by an asterisk are shared with an adjacent Restricted Gear Area):

Point	Latitude	Longitude	Note
AA	40°02.75' N	70°16.10' W	(*)
GX	40°07.80' N	70°09.20' W	
GY	40°07.60' N	70°04.50' W	
GZ	40°02.10' N	69°45.00' W	
HA	40°01.30' N	69°45.00' W	
HB	40°00.50' N	69°38.80' W	
HC	40°01.70' N	69°37.40' W	
HD	40°01.70' N	69°35.40' W	
HE	40°00.40' N	69°35.20' W	
HF	39°57.30' N	69°25.10' W	
HG	40°05.50' N	69°09.00' W	
HH	40°14.30' N	69°05.80' W	
HI	40°14.00' N	69°04.70' W	
HJ	40°11.60' N	68°53.00' W	
HK	40°13.60' N	68°40.60' W	
BS	40°07.90' N	68°36.00' W	(*)
BR	40°07.20' N	68°38.40' W	(*)
BQ	40°06.90' N	68°46.50' W	(*)
BP	40°08.70' N	68°49.60' W	(*)
BO	40°08.10' N	68°51.00' W	(*)
BN	40°05.70' N	68°52.40' W	(*)
BM	40°03.60' N	68°57.20' W	(*)
BL	40°03.65' N	69°00.00' W	(*)
BK	40°04.35' N	69°00.50' W	(*)
BJ	40°05.20' N	69°00.50' W	(*)
BI	40°05.30' N	69°01.10' W	(*)
BH	40°08.90' N	69°01.75' W	(*)

Point	Latitude	Longitude	Note
BG	40°11.00' N	69°03.80' W	(*)
BF	40°11.60' N	69°05.40' W	(*)
BE	40°10.25' N	69°04.40' W	(*)
BD	40°09.75' N	69°04.15' W	(*)
BC	40°08.45' N	69°03.60' W	(*)
BB	40°05.65' N	69°03.55' W	(*)
BA	40°04.10' N	69°03.90' W	(*)
AZ	40°02.65' N	69°05.60' W	(*)
AY	40°02.00' N	69°08.35' W	(*)
AX	40°02.65' N	69°11.15' W	(*)
AW	40°00.05' N	69°14.60' W	(*)
AV	39°57.80' N	69°20.35' W	(*)
AU	39°56.75' N	69°24.40' W	(*)
AT	39°56.50' N	69°26.35' W	(*)
AS	39°56.80' N	69°34.10' W	(*)
AR	39°57.85' N	69°35.15' W	(*)
AQ	40°00.65' N	69°36.50' W	(*)
AP	40°00.90' N	69°37.30' W	(*)
AO	39°59.15' N	69°37.30' W	(*)
AN	39°58.80' N	69°38.45' W	(*)
AM	39°56.20' N	69°40.20' W	(*)
AL	39°55.75' N	69°41.40' W	(*)
AK	39°56.70' N	69°53.60' W	(*)
AJ	39°57.55' N	69°54.05' W	(*)
AI	39°57.40' N	69°55.90' W	(*)
AH	39°56.90' N	69°57.45' W	(*)
AG	39°58.25' N	70°03.00' W	(*)
AF	39°59.20' N	70°04.90' W	(*)
AE	40°00.70' N	70°08.70' W	(*)
AD	40°03.75' N	70°10.15' W	(*)
AC	40°05.20' N	70°10.90' W	(*)
AB	40°02.45' N	70°14.10' W	(*)
AA	40°02.75' N	70°16.10' W	(*)

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

- (a) Except as provided in §§ 648.17 and 648.82(a)(2), a vessel issued a limited access NE multispecies permit may not fish for, possess, or land regulated species, except during a DAS, as allocated under, and in accordance with, the applicable DAS program described in this section, unless otherwise provided elsewhere in this part.
- (1) **End-of-year carry-over.** With the exception of vessels that held a Confirmation of Permit History, as described in § 648.4(a)(1)(i)(J), for the entire fishing year preceding the carry-over year, limited access vessels that have unused DAS on the last day of April of any year may carry over a maximum of 10 DAS into the next year. Unused leased DAS may not be carried over. Vessels that have been sanctioned through enforcement proceedings will be credited with unused DAS based on their DAS allocation minus any total DAS that have been sanctioned through enforcement proceedings. For the 2004 fishing year only, DAS carried over from the 2003 fishing year will be classified as Regular B DAS, as specified under paragraph (d)(2) of this section. Beginning with the 2005 fishing year, for vessels with a balance of both unused Category A DAS and unused Category B DAS at the end of the previous fishing year (e.g., for the 2005 fishing year, carry-over DAS from the 2004 fishing year), Category A DAS will be carried over first, then Regular B DAS, then Reserve B DAS. Category C DAS cannot be carried over.
- (2) Notwithstanding any other provision of this part, any vessel issued a NE multispecies limited access permit may not call into the DAS program and fish under a DAS, fish on a sector trip, or fish under the provisions of a limited access Small Vessel Category or Handgear A permits pursuant to paragraphs (b)(5) and (6) of this section, respectively, if such vessel carries passengers for hire for any portion of a fishing trip.
- (b) **Permit categories.** All limited access NE multispecies permit holders shall be assigned to one of the following permit categories, according to the criteria specified. Permit holders may request a change in permit category, as specified in § 648.4(a)(1)(i)(l)(2). Each fishing year shall begin on May 1 and extend through April 30 of the following year. Beginning May 1, 2004, with the exception of the limited access Small Vessel and Handgear A vessel categories described in paragraphs (b)(5) and (6) of this section, respectively, NE multispecies DAS available for use will be calculated pursuant to paragraphs (c) and (d) of this section.
- (1) **Individual DAS category.** This category is for vessels allocated individual DAS that are not fishing under the Hook Gear, Combination, or Large-mesh individual categories. Beginning May 1, 2004, for a vessel fishing under the Individual DAS category, the baseline for determining the number of NE multispecies DAS available for use shall be calculated based upon the fishing history associated with the vessel's permit, as specified in paragraph (c)(1) of this section. The number and categories of DAS that are allocated for use in a given fishing year are specified in paragraph (d) of this section.
- (2) **Hook Gear category.** To be eligible for a Hook Gear category permit, the vessel must have been issued a limited access multispecies permit for the preceding year, be replacing a vessel that was issued a Hook Gear category permit for the preceding year, or be replacing a vessel that was issued a Hook Gear category permit that was issued a Confirmation of Permit History. Beginning May 1, 2004, for a vessel fishing under the Hook Gear category, the baseline for determining the number of NE multispecies DAS available for use shall be calculated based upon the fishing history associated with the vessel's permit, as specified in paragraph (c)(1) of this section. The number and categories of DAS that are allocated for use in a given fishing year are specified in paragraph (d) 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)(v), (a)(4)(v), (b)(2)(v) and (c)(2)(iv) when fishing in the respective regulated mesh areas.

- (3) **Combination vessel category.** To be eligible for a Combination vessel category permit, a vessel must have been issued a Combination vessel category permit for the preceding year, be replacing a vessel that was issued a Combination vessel category permit for the preceding year, or be replacing a vessel that was issued a Combination vessel category permit that was also issued a Confirmation of Permit History. Beginning May 1, 2004, for a vessel fishing under the Combination vessel category, the baseline for determining the number of NE multispecies DAS available for use shall be calculated based upon the fishing history associated with the vessel's permit, as specified in paragraph (c)(1) of this section. The number and categories of DAS that are allocated for use in a given fishing year are specified in paragraph (d) of this section.
- (4) **Large Mesh Individual DAS category.** This category is for vessels allocated individual DAS that area not fishing under the Hook Gear, Combination, or Individual DAS categories. Beginning May 1, 2004, for a vessel fishing under the Large Mesh Individual DAS category, the baseline for determining the number of NE multispecies DAS available for use shall be calculated based upon the fishing history associated with the vessel's permit, as specified in paragraph (c)(1) of this section. The number and categories of DAS that are allocated for use in a given fishing year are specified in paragraph (d) of this section. The number of Category A DAS shall be 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 § 648.80(a)(3)(iii), (a)(4)(iii), (b)(2)(iii), and (c)(2)(ii).
- (5) **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 at § 648.86(g). Such a vessel is subject to the possession limits specified for other regulated species and ocean pout, as specified at § 648.86. Any vessel may elect to switch into the Small Vessel category, as provided in § 648.4(a)(1)(i)(I)(2), if the vessel meets or complies with the following:
 - (A) 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.
 - (B) If construction of the vessel was begun after May 1, 1994, the vessel must be constructed such that the quotient of the length overall divided by the beam is not less than 2.5.
 - (C) 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 overall, 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.

- (D) 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.

(ii) [Reserved]

- (6) **Handgear A category.** A vessel qualified and electing to fish under the Handgear A category, as described in § 648.4(a)(1)(i)(A), may retain, per trip, up to 300 lb (135 kg) of cod, one Atlantic halibut, and the daily possession limit for other regulated species and ocean pout, as specified under § 648.86. If either the GOM or GB cod trip limit applicable to a vessel fishing under a NE multispecies DAS permit, as specified in § 648.86(b)(1) and (2), respectively, is reduced below 300 lb (135 kg) per DAS by NMFS, the cod trip limit specified in this paragraph (b)(6) shall be adjusted to be the same as the applicable cod trip limit specified for NE multispecies DAS permits. For example, if the GOM cod trip limit for NE multispecies DAS vessels was reduced to 250 lb (113.4 kg) per DAS, then the cod trip limit for a vessel issued a Handgear A category permit that is fishing in the GOM Regulated Mesh Area would also be reduced to 250 lb (113.4 kg). Qualified vessels electing to fish under the Handgear A category are subject to the following restrictions:

- (i) The vessel must not use or possess on board gear other than handgear while in possession of, fishing for, or landing NE multispecies;
- (ii) Tub-trawls must be hand-hauled only, with a maximum of 250 hooks; and
- (iii) **Declaration.** For any such vessel that is not required to use VMS pursuant to § 648.10(b)(4), to fish for GB cod south of the GOM Regulated Mesh Area, as defined at § 648.80(a)(1), a vessel owner or operator must obtain, and retain on board, a letter of authorization from the Regional Administrator stating an intent to fish south of the GOM Regulated Mesh Area and may not fish in any other area for a minimum of seven consecutive days from the effective date of the letter of authorization. For any such vessel that is required, or elects, to use VMS pursuant to § 648.10(b)(4), to fish for GB cod south of the GOM Regulated Mesh Area, as defined at § 648.80(a)(1), a vessel owner or operator must declare an intent to fish south of the GOM Regulated Mesh Area on each trip through the VMS prior to leaving port, in accordance with instructions provided by the Regional Administrator. Such vessels may transit the GOM Regulated Mesh Area, as defined at § 648.80(a)(1), provided that their gear is stowed and not available for immediate use as defined in § 648.2.

(c) **Used DAS baseline —**

- (1) **Calculation of used DAS baseline.** For all valid limited access NE multispecies DAS vessels, vessels issued a valid small vessel category permit, and NE multispecies Confirmation of Permit Histories, beginning with the 2004 fishing year, a vessel's used DAS baseline shall be based on the fishing history associated with its permit and shall be determined by the highest number of reported DAS fished during a single qualifying fishing year, as specified in paragraphs (c)(1)(i) through (iv) of this section, during the 6-year period from May 1, 1996, through April 30, 2002, not to exceed the vessel's annual allocation prior to August 1, 2002. A qualifying year is one in which a vessel landed 5,000 lb (2,268 kg) or more of regulated multispecies, based upon landings reported through dealer reports (based on live weights of landings submitted to NMFS prior to April 30, 2003). If a vessel that was originally issued a limited access NE multispecies permit was lawfully replaced in accordance with the replacement restrictions specified in § 648.4(a), then the used DAS baseline shall be defined based upon the DAS used by the original vessel and by subsequent vessel(s) associated with the

permit during the qualification period specified in this paragraph (c)(1). The used DAS baseline shall be used to calculate the number and category of DAS that are allocated for use in a given fishing year, as specified in paragraph (d) of this section.

- (i) Except as provided in paragraphs (c)(1)(ii) through (iv) of this section, the vessel's used DAS baseline shall be determined by calculating DAS use reported 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 determined by calculating DAS use from vessel trip reports submitted to NMFS prior to April 9, 2003.
- (iii) For a vessel enrolled in a Large Mesh DAS category, as specified in paragraph (b)(4) of this section, the calculation of the vessel's used DAS baseline may not include any DAS allocated or used by the vessel pursuant to the provisions of the Large Mesh DAS category.

(2) [Reserved]

(d) **DAS categories and allocations.** For all valid limited access NE multispecies DAS permits, and NE multispecies Confirmation of Permit Histories, beginning with the 2004 fishing year, DAS shall be allocated and available for use for a given fishing year according to the following DAS Categories (unless otherwise specified, "NE multispecies DAS" refers to any authorized category of DAS):

- (1) **Category A DAS.** Calculation of Category A DAS for each fishing year is specified in paragraphs (d)(1)(i) through (iv) of this section. An additional 36 percent of Category A DAS will be added and available for use for participants in the Large Mesh Individual DAS permit category, as described in paragraph (b)(4) of this section, provided the participants comply with the applicable gear restrictions. Category A DAS may be used in the NE multispecies fishery to harvest and land stocks of regulated species or ocean pout, in accordance with all of the conditions and restrictions of this part.
 - (i) For the 2004 and 2005 fishing years, Category A DAS are defined as 60 percent of the vessel's used DAS baseline specified under paragraph (c)(1) of this section.
 - (ii) For the 2006 through 2008 fishing years, Category A DAS are defined as 55 percent of the vessel's used DAS baseline specified under paragraph (c)(1) of this section.
 - (iii) For fishing year 2009 (May 1, 2009, through April 30, 2010), Category A DAS are defined as 45 percent of the vessel's used DAS baseline specified in paragraph (c)(1) of this section.
 - (iv) Starting in fishing year 2010 (beginning May 1, 2010), Category A DAS are defined as follows:
 - (A) For a vessel fishing under the provisions of the common pool, as defined in this part, Category A DAS are defined as 27.5 percent of the vessel's used DAS baseline specified in paragraph (c)(1) of this section, unless otherwise revised pursuant to paragraph (n)(1) of this section, or reduced pursuant to § 648.87(b)(1)(iii).
 - (B) For a sector vessel, Category A DAS allocated for use when fishing in other fisheries that require the concurrent use of a NE multispecies DAS are defined as 45 percent of the vessel's used DAS baseline specified in paragraph

- (2) **Category B DAS.** Category B DAS are divided into Regular B DAS and Reserve B DAS. Calculation of Category B DAS for each fishing year, and restrictions on use of Category B DAS, are specified in paragraphs (d)(2)(i) and (ii) of this section.

(i) **Regular B DAS —**

- (A) **Restrictions on use.** Regular B DAS can only be used by NE multispecies vessels in an approved SAP or in the Regular B DAS Program as specified in § 648.85(b)(6). Unless otherwise restricted under the Regular B DAS Program as described in § 648.85(b)(6)(i), vessels may fish under both a Regular B DAS and a Reserve B DAS on the same trip (i.e., when fishing in an approved SAP as described in § 648.85(b)). Vessels that are required by the Monkfish Fishery Management Plan to utilize a NE multispecies DAS, as specified under § 648.92(b)(2), may not elect to use a NE multispecies Category B DAS to satisfy that requirement.

- (B) **Calculation.** Regular B DAS are calculated as follows:

- (1) For the 2004 and 2005 fishing years, Regular B DAS are defined as 20 percent of the vessel's DAS baseline specified under paragraph (c)(1) of this section.
- (2) For the 2006 through 2008 fishing years, Regular B DAS are defined as 22.5 percent of the vessel's DAS baseline specified under paragraph (c)(1) of this section.
- (3) For fishing year 2009 (May 1, 2009, through April 30, 2010), Regular B DAS are defined as 27.5 percent of the vessel's used DAS baseline specified in paragraph (c)(1) of this section.
- (4) Starting in fishing year 2010 (beginning May 1, 2010), Regular B DAS are defined as follows:
 - (i) For a common pool vessel, Regular B DAS are defined as 36.25 percent of the vessel's used DAS baseline specified in paragraph (c)(1) of this section, unless otherwise revised pursuant to paragraph (n)(1) of this section.
 - (ii) For a sector vessel, Regular B DAS are defined as 27.5 percent of the vessel's used DAS baseline specified in paragraph (c)(1) of this section.

(ii) **Reserve B DAS —**

- (A) **Restrictions on use.** Reserve B DAS can only be used in an approved SAP, as specified in § 648.85.

- (B) **Calculation.** Reserve B DAS are calculated as follows:

- (1) For the 2004 and 2005 fishing years, Reserve B DAS are defined as 20 percent of the vessel's DAS baseline specified under paragraph (c)(1) of this section.
- (2) For the 2006 through 2008 fishing years, Reserve B DAS are defined as 22.5 percent of the vessel's DAS baseline specified under paragraph (c)(1) of this section.
- (3) For fishing year 2009 (May 1, 2009, through April 30, 2010), Reserve B DAS are defined as 27.5 percent of the vessel's used DAS baseline specified in paragraph (c)(1) of this section.

(4) Starting in fishing year 2010 (beginning May 1, 2010), Reserve B DAS are defined as follows:

- (i) For a common pool vessel, Reserve B DAS are defined as 36.25 percent of the vessel's used DAS baseline specified in paragraph (c)(1) of this section, unless otherwise revised pursuant to paragraph (n)(1) of this section.
- (ii) For a sector vessel, Reserve B DAS are defined as 27.5 percent of the vessel's used DAS baseline specified in paragraph (c)(1) of this section.

(3) **Category C DAS –**

- (i) **Restriction on use.** Category C DAS are reserved and may not be fished.
- (ii) **Calculation.** Category C DAS are defined as the difference between a vessel's used DAS baseline, as described in paragraph (c)(1) of this section, and the number of DAS allocated to the vessel as of May 1, 2001.

(e) **Accrual of DAS.**

(1) When a vessel is participating in the NE multispecies DAS program, as required by the regulations in this part, NE multispecies DAS shall accrue as specified in paragraphs (e)(1)(i) and (ii) of this section and shall be based upon the time called, or logged into the DAS program, consistent with the DAS notification requirements specified in § 648.10. For the purpose of calculating trip limits specified in this part, the amount of DAS deducted from a vessel's DAS allocation shall determine the amount of fish the vessel can land legally.

- (i) **Common pool vessels.** For a common pool vessel, Category A DAS shall accrue in 24-hr increments, unless otherwise required under paragraphs (n) or (o) of this section. For example, a vessel that fished from 6 a.m. to 10 p.m. would be charged 24 hr of Category A DAS, not 16 hr; a vessel that fished for 25 hr would be charged 48 hr of Category A instead of 25 hr.

(ii) [Reserved]

(2) [Reserved]

(3) **Regular B DAS Program 24-hr clock.** For a vessel electing to fish in the Regular B DAS Program, as specified at § 648.85(b)(6), that remains fishing under a Regular B DAS for the entire fishing trip (without a DAS flip), DAS shall accrue at the rate of 1 full DAS for each calendar day, or part of a calendar day fished. For example, a vessel that fished on 1 calendar day from 6 a.m. to 10 p.m. would be charged 24 hr of Regular B DAS, not 16 hr; a vessel that left on a trip at 11 p.m. on the first calendar day and returned at 10 p.m. on the second calendar day would be charged 48 hr of Regular B DAS instead of 23 hr, because the fishing trip would have spanned 2 calendar days. For the purpose of calculating trip limits specified under § 648.86, the amount of DAS deducted from a vessel's DAS allocation shall determine the amount of fish the vessel can land legally. For a vessel electing to fish in the Regular B DAS Program, as specified at § 648.85(b)(6), while also fishing in an area subject to differential DAS counting pursuant to paragraph (n)(1)(i) of this section, Category B DAS shall accrue at the rate described in this paragraph (e)(3), unless the vessel flips to a Category A DAS, in which case the vessel is subject to the pertinent DAS accrual restrictions of paragraph (n)(1) of this section for the entire trip. For vessels electing to fish in both the Regular B DAS Program, as specified in § 648.85(b)(6), and in the Eastern U.S./Canada Area, as specified in § 648.85(a), DAS counting will begin and end according to the DAS rules specified in § 648.10(e)(5)(iv).

(f) *DAS credits* —

- (1) *Good Samaritan credit.* A limited access vessel fishing under the DAS program and that spends time at sea assisting in a USCG search and rescue operation or assisting the USCG in towing a disabled vessel, and that can document the occurrence through the USCG, shall not accrue DAS for the time documented.
- (2) *Canceled trip DAS credit.* A limited access vessel operating under the DAS program and that ends a fishing trip prior to setting and/or hauling fishing gear for any reason may request a cancelled trip DAS credit for the trip based on the following conditions and requirements:
 - (i) There is no fish onboard the vessel and no fishing operations on the vessel were initiated, including setting and/or hauling fishing gear; and
 - (ii) The owner or operator of the vessel fishing under a DAS program and required to use a VMS as specified under § 648.10(b) makes an initial trip cancelation notification from sea, at the time the trip was canceled, or at the earliest opportunity prior to crossing the demarcation line as defined at § 648.10(a). These reports are in the form of an email to NMFS Office of Law Enforcement and include at least the following information: Operator name; vessel name; vessel permit number; port where vessel will return; date trip started; estimated date/time of return to port; and a statement from the operator must that no fish were onboard and no fishing activity occurred; and
 - (iii) The owner or operator of the vessel operating under the DAS program required to use the IVR call in as specified under § 648.10(h) makes an initial trip cancelation notification to NMFS by calling the IVR back at the time the trip was canceled, or at the earliest opportunity prior to returning to port. This request must include at least the following information: Operator name; vessel name; vessel permit number; port where vessel will return; date trip started; estimated date/time of return to port; and a statement from the operator that no fish were onboard and no fishing activity occurred; and
 - (iv) The owner or operator of the vessel requesting a canceled trip DAS credit, in addition to the requirements in paragraphs (f)(2)(ii) and (iii) of this section, submits a written DAS credit request form to NMFS within 30 days of the vessel's return to port from the canceled trip. This application must include at least the following information: Date and time when the vessel canceled the fishing trip; date and time of trip departure and landing; operator name; owner/corporation name; permit number; hull identification number; vessel name; date and time notification requirements specified under paragraphs (f)(2)(ii) and (iii) of this section were made; reason for canceling the trip; and owner/operator signature and date; and
 - (v) The vessel trip report for the canceled trip as required under § 648.7(b) is submitted along with the DAS credit request form; and
 - (vi) For DAS credits that are requested near the end of the fishing year as defined at § 648.2, and approved by the Regional Administrator, the credited DAS apply to the fishing year in which the canceled trip occurred. Credited DAS that remain unused at the end of the fishing year or are not credited until the following fishing year may be carried over into the next fishing year, not to exceed the maximum number of carryover DAS as specified under paragraph (a)(1) of this section.

- (3) ***DAS credit for standing by entangled whales.*** A limited access vessel fishing under the DAS program that reports and stands by an entangled whale may request a DAS credit for the time spent standing by the whale. The following conditions and requirements must be met to receive this credit:
- (i) At the time the vessel begins standing by the entangled whale, the vessel operator must notify the USCG and the Center for Coastal Studies, or another organization authorized by the Regional Administrator, of the location of the entangled whale and that the vessel is going to stand by the entangled whale until the arrival of an authorized response team;
 - (ii) Only one vessel at a time may receive credit for standing by an entangled whale. A vessel standing by an entangled whale may transfer its stand-by status to another vessel while waiting for an authorized response team to arrive, provided it notifies the USCG and the Center for Coastal Studies, or another organization authorized by the Regional Administrator, of the transfer. The vessel to which stand-by status is transferred must also notify the USCG and the Center for Coastal Studies or another organization authorized by the Regional Administrator of this transfer and comply with the conditions and restrictions of this part;
 - (iii) The stand-by vessel must be available to answer questions on the condition of the animal, possible species identification, severity of entanglement, etc., and take photographs of the whale, if possible, regardless of the species of whale or whether the whale is alive or dead, during its stand-by status and after terminating its stand-by status. The stand-by vessel must remain on scene until the USCG or an authorized response team arrives, or the vessel is informed that an authorized response team will not arrive. If the vessel receives notice that a response team is not available, the vessel may discontinue standing-by the entangled whale and continue fishing operations; and
 - (iv) To receive credit for standing by an entangled whale, a vessel must submit a written request to the Regional Administrator. This request must include at least the following information: Date and time when the vessel began its stand-by status; date of first communication with the USCG; and date and time when the vessel terminated its stand-by status. DAS credit shall not be granted for the time a vessel fishes when standing by an entangled whale. Upon a review of the request, NMFS shall consider granting the DAS credit based on information available at the time of the request, regardless of whether an authorized response team arrives on scene or a rescue is attempted. NMFS shall notify the permit holder of any DAS adjustment that is made or explain the reasons why an adjustment will not be made.
- (g) ***Spawning season restrictions.*** A vessel issued a valid Small Vessel category permit specified in paragraph (b)(5) of this section, or a vessel issued an open access Handgear B permit, as specified in § 648.88(a), may not fish for, possess, or land regulated species or ocean pout from March 1 through March 20 of each year. A common pool vessel must declare out and be out of the NE multispecies DAS program, and a sector must declare that the vessel will not fish with gear capable of catching NE multispecies (i.e., gear that is not defined as exempted gear under this part), for a 20-day period between March 1 and May 31 of each calendar year, using the notification requirements specified in § 648.10. A vessel fishing under a Day gillnet category designation is prohibited from fishing with gillnet gear capable of catching NE multispecies during its declared 20-day spawning block, unless the vessel is fishing in an exempted fishery, as described in § 648.80. If a vessel owner has not declared and been out of the fishery for a 20-day period between March 1 and May 31 of each calendar year on or before May 12 of each year, the vessel is prohibited from fishing for, possessing or landing any regulated species, ocean pout, or non-exempt species during the period from May 12 through May 31.

- (h) **Declaring DAS and blocks of time out.** A vessel's owner or authorized representative shall notify the Regional Administrator of a vessel's participation in the DAS program; declaration of its 120 days out of the non-exempt gillnet fishery, if designated as a Day gillnet category vessel, as specified in paragraph (j) of this section; and declaration of its 20-day period out of the NE multispecies DAS program, or, for a sector vessel that the vessel will not fish with gear capable of catching NE multispecies, using the notification requirements specified in § 648.10.
- (i) [Reserved]
- (j) **Gillnet restrictions.** A vessel issued a limited access NE multispecies permit may fish under a NE multispecies DAS, under the provisions of the small vessel permit category, or on a sector trip with gillnet gear, provided the owner of the vessel obtains an annual designation as either a Day or Trip gillnet vessel, as described in § 648.4(c)(2)(iii), and provided the vessel complies with the gillnet vessel gear requirements and restrictions specified in § 648.80.
 - (1) **Day gillnet vessels.** Unless otherwise exempted in this part, a Day gillnet vessel fishing with gillnet gear under a NE multispecies DAS, the provisions of a small vessel permit category, or on a sector trip is not required to remove gear from the water upon returning to the dock and calling out of the DAS program, as appropriate, provided the vessel complies with the restrictions specified in paragraphs (j)(1)(i) through (iii) 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) **Removal of gear.** All gillnet gear must be brought to port prior to the vessel fishing in an exempted fishery.
 - (ii) **Declaration of time out of the gillnet fishery.**
 - (A) During each fishing year, a Day gillnet vessel must declare, and take, a total of 120 days out of the non-exempt gillnet fishery. Each period of time declared and taken must be a minimum of 7 consecutive days. At least 21 days of this time must be taken between June 1 and September 30 of each fishing year. The spawning season time out period required by paragraph (g) of this section shall be credited toward the 120 days time out of the non-exempt gillnet fishery. If a vessel owner has not declared and taken any or all of the remaining periods of time required to be out of the fishery by the last possible date to meet these requirements, the vessel is prohibited from fishing for, possessing, or landing regulated multispecies, ocean pout, or non-exempt species harvested with gillnet gear and from having gillnet gear on board the vessel that is not stowed and not available for immediate use as defined in § 648.2 while fishing under a NE multispecies DAS, the provisions of the small vessel category permit, or on a sector trip from that date through the end of the period between June 1 and September 30, or through the end of the fishing year, as applicable, unless otherwise exempt pursuant to § 648.87.
 - (B) Any such vessel shall declare its required time periods through the notification procedures specified in § 648.10(j)(2).
 - (C) During each period of time declared out, any such vessel is prohibited from fishing with non-exempted gillnet gear and must remove such gear from the water. However, the vessel may fish in an exempted fishery, as described in § 648.80, or it may fish under a NE multispecies DAS, under the provisions of the small vessel category permit, or on a sector trip, provided it fishes with gear other than non-exempted gillnet gear.

(iii) **Method of counting DAS.** A Day gillnet vessel fishing with gillnet gear under a NE multispecies DAS shall accrue DAS as follows:

(A) A Day gillnet vessel fishing with gillnet gear that has elected to fish in the Regular B DAS Program, as specified in § 648.85(b)(6), under a Category B DAS, is subject to the DAS accrual provisions of paragraph (e)(1)(i) of this section.

(B) A Day gillnet vessel fishing with gillnet gear under a NE multispecies Category A DAS shall accrue DAS as follows:

(1) A Day gillnet vessel on a common pool trip is subject to the DAS accrual provisions of paragraph (e)(1)(i) of this section.

(2) A Day gillnet vessel on a sector trip is subject to the DAS accrual provisions of paragraph (e)(1)(ii) of this section.

(2) **Trip gillnet vessels.** When fishing under a NE multispecies DAS, under the provisions of the small vessel category permit, or on a sector trip, a Trip gillnet vessel is required to remove all gillnet gear from the water before returning to port upon the completion of a fishing trip and calling out of a NE multispecies DAS, as applicable, under § 648.10(e)(5) or (h)(5), respectively. When not fishing under a NE multispecies DAS, Trip gillnet vessels may fish in an exempted fishery with gillnet gear, as authorized by § 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.

(k) **NE Multispecies DAS Leasing Program –**

(1) **Program description.** Eligible vessels, as specified in paragraph (k)(2) of this section, may lease Category A DAS to and from other eligible vessels, in accordance with the restrictions and conditions of this section. The Regional Administrator has final approval authority for all NE multispecies DAS leasing requests.

(2) **Eligible vessels.**

(i) A vessel issued a valid limited access NE multispecies permit is eligible to lease Category A DAS to or from another such vessel, subject to the conditions and requirements of this part, unless the vessel was issued a valid Small Vessel or Handgear A permit specified under paragraphs (b)(5) and (6) of this section, respectively.

(ii) Subject to the conditions and requirements of this part, DAS associated with a confirmation of permit history may be leased to another vessel without placing the permit on an active vessel.

(3) **Application to lease NE multispecies DAS –**

(i) **Application information requirements.** An application to lease Category A DAS must contain the following information: Lessor's owner name, vessel name, permit number and official number or state registration number; Lessee's owner name, vessel name, permit number and official number or state registration number; number of NE multispecies DAS to be leased; total priced paid for leased DAS; signatures of Lessor and Lessee; and date form was completed. Information obtained from the lease application will be held confidential, according to applicable Federal law. Aggregate data may be used in the analysis of the DAS Leasing Program.

- (ii) **Approval of lease application.** Unless an application to lease Category A DAS is denied according to paragraph (k)(3)(iii) of this section, the Regional Administrator shall issue confirmation of application approval to both Lessor and Lessee within 45 days of receipt of an application.
- (iii) **Denial of lease application.** The Regional Administrator may deny an application to lease Category A DAS for any of the following reasons, including, but not limited to: The application is incomplete or submitted past the April 30 deadline; the Lessor or Lessee has not been issued a valid limited access NE multispecies permit or is otherwise not eligible; the Lessor's or Lessee's DAS are under sanction pursuant to an enforcement proceeding; the Lessor's or Lessee's vessel is prohibited from fishing; the Lessor's or Lessee's limited access NE multispecies permit is sanctioned pursuant to an enforcement proceeding; the Lessor or Lessee vessel is determined not in compliance with the conditions, restrictions, and requirements of this part; or the Lessor has an insufficient number of allocated or unused DAS available to lease. Upon denial of an application to lease NE multispecies DAS, the Regional Administrator shall send a letter to the applicants describing the reason(s) for application rejection. The decision by the Regional Administrator is the final agency decision.

(4) **Conditions and restrictions on leased DAS —**

- (i) **Confirmation of permit history.** Pursuant to paragraph (k)(2)(ii) of this section, DAS associated with a confirmation of permit history may be leased.
- (ii) **Sub-leasing.** In a fishing year, a Lessor or Lessee vessel may not sub-lease DAS that have already been leased to another vessel. Any portion of a vessel's DAS may not be leased more than one time during a fishing year.
- (iii) **Carry-over of leased DAS.** Leased DAS that remain unused at the end of the fishing year may not be carried over to the subsequent fishing year by the Lessor or Lessee vessel.
- (iv) [Reserved]
- (v) **History of leased DAS use.** The history of leased DAS use shall be presumed to remain with the Lessor vessel. In the case of multiple leases to one vessel, the history of leased DAS use shall be presumed to remain with the Lessor in the order in which such leases were approved by NMFS. For the purpose of accounting for leased DAS use, leased DAS will be accounted for (subtracted from available DAS) prior to allocated DAS.
- (vi) **Monkfish Category C, D, F, G and H vessels.** A vessel that possesses a valid limited access NE multispecies DAS permit and a valid limited access monkfish Category C, D, F, G, or H permit and leases NE multispecies DAS to or from another vessel is subject to the restrictions specified in § 648.92(b)(2).
- (vii) **DAS Category restriction.** A vessel may lease only Category A DAS, as described under paragraph (d)(1) of this section.
- (viii) **Duration of lease.** A vessel leasing DAS may only fish those leased DAS during the fishing year in which they were leased.
- (ix) **Size restriction of Lessee vessel.** A Lessor vessel only may lease DAS to a Lessee vessel with a baseline main engine horsepower rating that is no more than 20 percent greater than the baseline engine horsepower of the Lessor vessel. A Lessor vessel may only lease DAS to a Lessee vessel with a baseline length overall that is no more than 10 percent greater than the

baseline length overall of the Lessor vessel. For the purposes of this program, the baseline horsepower and length overall specifications of vessels are those associated with the permit as of January 29, 2004, unless otherwise modified according to paragraph (k)(4)(xi) of this section.

- (x) **Leasing by vessels fishing under a sector allocation.** A sector vessel may not lease DAS to or from common pool vessels, but may lease DAS to or from another sector vessel during the fishing year in which the vessel is a member of a sector.
- (xi) **One-time downgrade of DAS Leasing Program baseline.** Unless otherwise specified in paragraph (k)(4)(xi)(B) and (C) of this section, for the purposes of determining eligibility for leasing DAS only, a vessel owner may elect to make a one-time downgrade to the vessel's DAS Leasing Program baseline length and horsepower as specified in paragraph (k)(4)(ix) of this section to match the length overall and horsepower specifications of the vessel that is currently issued the permit.
 - (A) **Application for a one-time DAS Leasing Program baseline downgrade.** To downgrade the DAS Leasing Program baseline, eligible NE multispecies vessels must submit a completed application form obtained from the Regional Administrator. An application to downgrade a vessel's DAS Leasing Program baseline must contain at least the following information: Vessel owner's name, vessel name, permit number, official number or state registration number, current vessel length overall and horsepower specifications, an indication whether additional information is included to document the vessel's current specifications, and the signature of the vessel owner.
 - (B) **Applicability of the one-time DAS Leasing Program baseline downgrade.** The downgraded DAS Leasing Program baseline may only be used to determine eligibility for the DAS Leasing Program and does not affect or change the baseline associated with the DAS Transfer Program specified in paragraph (l)(1)(ii) of this section, or the vessel replacement or upgrade restrictions specified at § 648.4(a)(1)(i)(E) and (F), or any other provision.
 - (C) **Duration of the one-time DAS Leasing Program baseline downgrade.** Unless otherwise specified in this paragraph (k)(4)(xi)(C) of this section, the downgraded DAS Leasing Program baseline remains in effect until the DAS Leasing Program expires or the permit is transferred to another vessel via a vessel replacement, or through a DAS transfer. With the exception of vessels combining DAS Leasing Program baselines from two different vessels through the DAS Transfer Program as outlined in paragraph (k)(4)(xi)(C)(2) of this section, once the DAS Leasing Program baseline is downgraded for a particular permit, no further downgrades may be authorized for that permit.
 - (1) **Vessel replacement.** If the permit is transferred to another vessel via a vessel replacement, the DAS Leasing Program baseline reverts to the baseline horsepower and length overall specifications associated with the permit prior to the one-time downgrade.
 - (2) **DAS Transfer Program.** For vessels involved in a DAS Transfer Program transaction as described in paragraph (l) of this section, if the transferee vessel baseline is adopted, consistent with the regulations under paragraph (l)(1)(ii) of this section, and the DAS Leasing Program baseline of the transferee vessel was previously downgraded, consistent with the regulations under this paragraph (k)(4)(xi), the downgraded DAS Leasing Program baseline specifications remain valid. For vessels involved in a DAS

Transfer Program transaction where a combination of the transferor and transferee vessel baselines is adopted resulting in a new vessel baseline, any previous DAS Leasing Program baseline downgrade for either the transferor or transferee vessel will be voided and the transferee vessel would have an additional opportunity to downgrade its combined DAS Leasing Program baseline.

- (l) **DAS Transfer program.** Except for vessels fishing under a sector allocation as specified in § 648.87, or a vessel that acted as a lessee or lessor in the DAS Leasing Program transaction, a vessel issued a valid limited access NE multispecies permit may transfer all of its NE multispecies DAS for an indefinite time to another vessel with a valid NE multispecies permit, in accordance with the conditions and restrictions described under this section. The Regional Administrator has final approval authority for all NE multispecies DAS transfer requests.

(1) **DAS transfer conditions and restrictions.**

- (i) The transferor vessel must transfer all of its DAS. Upon approval of the DAS transfer, all history associated with the transferred NE multispecies DAS (moratorium right history, DAS use history, and catch history) shall be associated with the permit rights of the transferee. Neither the individual permit history elements, nor total history associated with the transferred DAS may be retained by the transferor.
- (ii) NE multispecies DAS may be transferred only to a vessel with a baseline main engine horsepower rating that is no more than 20 percent greater than the baseline engine horsepower of the transferor vessel. NE multispecies DAS may be transferred only to a vessel with a baseline length overall that is no more than 10 percent greater than the baseline length overall of the transferor vessel. For the purposes of this program, the baseline horsepower and length overall are those associated with the permit as of January 29, 2004. Upon approval of the transfer, the baseline of the transferee vessel would be the smaller baseline of the two vessels or the vessel owner could choose to adopt the larger baseline of the two vessels provided such an upgrade is consistent with provisions of this paragraph (l)(1)(ii). A vessel that has executed a one-time downgrade of a DAS Leasing Program baseline in accordance with paragraph (k)(4)(xi) of this section is subject to the restrictions of paragraph (k)(4)(xi)(C) of this section.
- (iii) The transferor vessel must transfer all of its Federal limited access permits for which it is eligible to the transferee vessel in accordance with the vessel replacement restrictions under § 648.4, or permanently cancel such permits. When duplicate permits exist, *i.e.*, those permits for which both the transferor and transferee vessel are eligible, one of the duplicate permits must be permanently cancelled.
- (iv) [Reserved]
- (v) In any particular fishing year, a vessel may not execute a DAS transfer as a transferor if it previously participated in the DAS Leasing Program as either a lessee or a lessor, as described under paragraph (k) of this section. A vessel may participate in DAS lease transaction (as a lessee or a lessor) and submit an application for a DAS transfer (as a transferor) during the same fishing year, but the transfer, if approved, would not be effective until the beginning of the following fishing year. Other combinations of activities under the DAS Leasing and DAS Transfer programs are permissible during the same fishing year (*i.e.*, act as a transferee, or act as transferor and subsequently conduct a DAS lease).
- (vi) **Confirmation of permit history.** NE multispecies DAS associated with a Confirmation of Permit History may be transferred.

- (vii) **Transfer by sector vessels.** A sector vessel may not transfer DAS to or from vessels that are fishing under the provisions of the common pool or another sector, but may transfer DAS to or from another vessel participating in that vessel's sector during the fishing year in which the vessel is a member of a particular sector.
- (viii) Unless otherwise restricted by this part, a vessel with a NE multispecies limited access Category D permit may transfer DAS only to a vessel with a NE multispecies limited access Category D permit, but may receive transferred DAS from any eligible NE multispecies vessel.

(2) **Application to transfer DAS.** Owners of the vessels applying to transfer and receive DAS must submit a completed application form obtained from the Regional Administrator. The application must be signed by both seller/transferor and buyer/transferee of the DAS, and submitted to the Regional Office at least 45 days before the date on which the applicant desires to have the DAS effective on the buying vessel. The Regional Administrator will notify the applicants of any deficiency in the application pursuant to this section. Applications may be submitted at any time during the fishing year, up until March 1.

- (i) **Application information requirements.** An application to transfer NE multispecies DAS must contain the following information: Seller's/transferor's name, vessel name, permit number and official number or state registration number; buyer's/transferee's name, vessel name, permit number and official number or state registration number; total price paid for purchased DAS; signatures of seller and buyer; and date the form was completed. Information obtained from the transfer application will be held confidential, and will be used only in summarized form for management of the fishery.
- (ii) **Approval of transfer application.** Unless an application to transfer NE multispecies DAS is denied according to paragraph (l)(2)(iii) of this section, the Regional Administrator shall issue confirmation of application approval to both seller/transferor and buyer/transferee within 45 days of receipt of an application.
- (iii) **Denial of transfer application.** The Regional Administrator may reject an application to transfer NE multispecies DAS for the following reasons: The application is incomplete or submitted past the March 1 deadline; the seller/transferor or buyer/transferee does not possess a valid limited access NE multispecies permit; the seller's/transferor's or buyer's/transferee's DAS is sanctioned, pursuant to an enforcement proceeding; the seller's/transferor's or buyer/transferee's vessel is prohibited from fishing; the seller's/transferor's or buyer's/transferee's limited access NE multispecies permit is sanctioned pursuant to enforcement proceedings; or the seller/transferor has a DAS baseline of zero. Upon denial of an application to transfer NE multispecies DAS, the Regional Administrator shall send a letter to the applicants describing the reason(s) for application rejection. The decision by the Regional Administrator is the final agency decision and there is no opportunity to appeal the Regional Administrator's decision.

(m) [Reserved]

(n) **NE multispecies common pool accountability measure (AM).** Common pool vessels are subject to the following AMs, in addition to the DAS accrual provisions specified in paragraph (e) of this section and other measures specified in this part.

- (1) **Differential DAS counting AM for fishing years 2010 and 2011.** Unless otherwise specified pursuant to § 648.90(a)(5), based upon catch and other information available to NMFS by February of each year, the Regional Administrator shall project the catch of regulated species or ocean pout by common pool vessels for the fishing year ending on April 30 to determine whether such catch will exceed any

of the sub-ACLs specified for common pool vessels pursuant to § 648.90(a)(4)(iii). This initial projection of common pool catch shall be updated shortly after the end of each fishing year, once information becomes available regarding the catch of regulated species and ocean pout by vessels fishing for groundfish in state waters outside of the FMP, vessels fishing in exempted fisheries, and vessels fishing in the Atlantic sea scallop fishery; and the catch of Atlantic halibut, SNE/MA winter flounder, ocean pout, windowpane flounder, and Atlantic wolffish by sector vessels to determine if excessive catch by such vessels resulted in the overall ACL for a particular stock to be exceeded. If such catch resulted in the overall ACL for a particular stock being exceeded, the common pool's catch of that stock shall be increased by an amount equal to the amount of the overage of the overall ACL for that stock multiplied by the common pool's share of the overall ACL for that stock calculated pursuant to § 648.90(a)(4)(iii)(H)(2). For example, if the 2010 overall ACL for GOM cod was exceeded by 10,000 lb (4,536 kg) due to excessive catch of that stock by vessels fishing in state waters outside the FMP, and the common pool's share of the 2010 overall GOM cod ACL was 5 percent, then the common pool's 2010 catch of GOM cod shall be increased by 500 lb (226.8 kg) (10,000 lb (4,536 kg) × 0.05 of the overall GOM cod ACL). If, based on the initial projection completed in February, the Regional Administrator projects that any of the sub-ACLs specified for common pool vessels will be exceeded or underharvested, the Regional Administrator shall implement a differential DAS counting factor to all Category A DAS used within the stock area in which the sub-ACL was exceeded or underharvested, as specified in paragraph (n)(1)(i) of this section, during the following fishing year, in a manner consistent with the Administrative Procedure Act. Any differential DAS counting implemented at the start of the fishing year will be reevaluated and recalculated, if necessary, once updated information is obtained. The differential DAS counting factor shall be based upon the projected proportion of the sub-ACL of each NE multispecies stock caught by common pool vessels, rounded to the nearest even tenth, as specified in paragraph (n)(1)(ii) of this section, unless otherwise specified pursuant to § 648.90(a)(5). For example, if the Regional Administrator projects that common pool vessels will catch 1.18 times the sub-ACL for GOM cod during fishing year 2010, the Regional Administrator shall implement a differential DAS counting factor of 1.2 to all Category A DAS used by common pool vessels only within the Inshore GOM Differential DAS Area during fishing year 2011 (i.e., Category A DAS will be charged at a rate of 28.8 hr for every 24 hr fished—1.2 times 24-hr DAS counting). If it is projected that catch in a particular fishing year will exceed or underharvest the sub-ACLs for several regulated species stocks within a particular stock area, including both exceeding and underharvesting several sub-ACLs within a particular stock area, the Regional Administrator shall implement the most restrictive differential DAS counting factor derived from paragraph (n)(1)(ii) of this section for the sub-ACLs exceeded or underharvested to any Category A DAS used by common pool vessels within that particular stock area. For example, if it is projected that common pool vessels will be responsible for 1.2 times the GOM cod sub-ACL and 1.1 times the CC/GOM yellowtail flounder sub-ACL, the Regional Administrator shall implement a differential DAS counting factor of 1.2 to any Category A DAS fished by common pool vessels only within the Inshore GOM Differential DAS Area during the following fishing year. For any differential DAS counting factor implemented in fishing year 2011, the differential DAS counting factor shall be applied against the DAS accrual provisions specified in paragraph (e)(1)(i) of this section for the time spent fishing in the applicable differential DAS counting area based upon the first VMS position into the applicable differential DAS counting area and the first VMS position outside of the applicable differential DAS counting area, pursuant to § 648.10. For example, if a vessel fished 12 hr inside a differential DAS counting area where a differential DAS counting factor of 1.2 would be applied, and 12 hr outside of the differential DAS counting area, the vessel would be charged 48 hr of DAS use because DAS would be charged in 24-hr increments ((12 hr inside the area × 1.2 = 14.4 hr) + 12 hr outside the area, rounded up to the

next 24-hr increment to determine DAS charged). For any differential DAS counting factor implemented in fishing year 2012, the differential DAS counting factor shall be applied against the DAS accrual provisions in paragraph (e)(1)(i) of this section, or if a differential DAS counting factor was implemented for that stock area during fishing year 2011, against the DAS accrual rate applied in fishing year 2011. For example, if a differential DAS counting factor of 1.2 was applied to the Inshore GOM Differential DAS Area during fishing year 2011 due to a 20-percent overage of the GOM cod sub-ACL, yet the GOM cod sub-ACL was exceeded again, but by 50 percent during fishing year 2011, an additional differential DAS factor of 1.5 would be applied to the DAS accrual rate applied during fishing year 2012 (i.e., the DAS accrual rate in the Inshore GOM Differential DAS Counting Area during fishing year 2012 would be 43.2 hr charged for every 24-hr fished— $1.2 \times 1.5 \times 24$ -hr DAS charge). If the Regional Administrator determines that similar DAS adjustments are necessary in all stock areas, the Regional Administrator will adjust the ratio of Category A:Category B DAS specified in paragraph (d)(1) of this section to reduce the number of available Category A DAS available based upon the amount of the overage, rather than apply a differential DAS counting factor to all Category A DAS used in all stock areas.

(i) **Differential DAS counting areas.** The following differential DAS counting areas shall be used for the purposes of implementing the differential DAS counting AM specified in paragraph (n)(1) of this section:

(A) **Inshore GOM Differential DAS Area.** The Inshore GOM Differential DAS Area applies to the following stocks of regulated species: White hake, pollock, GOM cod, GOM haddock, CC/ GOM yellowtail flounder, GOM winter flounder, and Atlantic wolffish. The Inshore GOM Differential DAS Area is defined as the area bounded on the west by the shoreline of the United States and bounded on the east by straight lines connecting the following points in the order stated:

INSHORE GOM DIFFERENTIAL DAS AREA

Point	N. latitude	W. longitude
INGOM1	(¹)	69°30'
INGOM2	43°00'	69°30'
INGOM3	43°00'	70°00'
INGOM4	(²)	70°00'

¹ Intersection with ME shoreline.

² North-facing shoreline of Cape Cod, MA.

(B) **Offshore GOM Differential DAS Area.** The Offshore GOM Differential DAS Area applies to the following stocks of regulated species: GOM haddock, white hake, pollock, redfish, witch flounder, American plaice, and Atlantic halibut. The Offshore GOM Differential DAS

Area is defined as the area bounded on the north by the shoreline of Maine, bounded on the east by the U.S./Canadian maritime boundary, and bounded on the south and west by straight lines connecting the following points in the order stated:

OFFSHORE GOM DIFFERENTIAL DAS AREA

Point	N. latitude	W. longitude
CII3	42°22'	67°20'
OFFGOM1	42°20'	67°20'
OFFGOM2	42°20'	70°00'
OFFGOM5	43°00'	70°00'
INGOM2	43°00'	69°30'
INGOM1	(¹)	69°30'

¹ Intersection with ME shoreline.

- (C) **Inshore GB Differential DAS Area.** The Inshore GB Differential DAS Area applies to the following stocks of regulated species: Witch flounder, American plaice, white hake, Atlantic halibut, redfish, pollock, CC/GOM yellowtail flounder, GB cod, GB haddock, SNE/MA winter flounder, and Atlantic wolffish. The Inshore GB Differential DAS Area is defined as the area bounded by straight lines connecting the following points in the order stated:

INSHORE GB DIFFERENTIAL DAS AREA

Point	N. latitude	W. longitude
G9	(¹)	70°00'
G10	42°20'	70°00'
IGB1	42°20'	68°50'
IGB2	41°00'	68°50'
IGB3	41°00'	69°30'
IGB4	41°10'	69°30'
IGB5	41°10'	69°50'
IGB6	41°20'	69°50'
IGB7	41°20'	70°00'

¹ The intersection of the Cape Cod, MA, coastline and 70°00' W. longitude.

² South-facing shoreline of Cape Cod, MA.

Point	N. latitude	W. longitude
G12	(²)	70°00'

¹ The intersection of the Cape Cod, MA, coastline and 70°00' W. longitude.

² South-facing shoreline of Cape Cod, MA.

- (D) **Offshore GB Differential DAS Area.** The Offshore GB Differential DAS Area applies to the following stocks of regulated species: Witch flounder, American plaice, Atlantic halibut, northern windowpane flounder, GB cod, GB haddock, GB yellowtail flounder, and GB winter flounder. The Offshore GB Differential DAS Area is defined as the area bounded on the east by the U.S./Canadian maritime boundary and straight lines connecting the following points in the order stated:

OFFSHORE GB DIFFERENTIAL DAS AREA

Point	N. latitude	W. longitude
IGB1	42°20'	68°50'
OGB1	42°20'	67°20'
CII3	(¹)	67°20'
OGB2	40°10'	(¹)
OGB3	40°10'	68°50'
IGB1	42°20'	68°50'

¹ The U.S./Canada maritime boundary as it intersects with the EEZ.

- (E) **SNE/MA Differential DAS Area.** The SNE/MA Differential DAS Area applies to the following stocks of regulated species or ocean pout: SNE/MA winter flounder, SNE/MA yellowtail flounder, southern windowpane flounder, and ocean pout. The SNE/MA Differential DAS

Area is defined as the area bounded on the north and west by the coastline of the United States, bounded on the east and south by straight lines connecting the following points in the order stated:

SNE/MA DIFFERENTIAL DAS AREA

Point	N. latitude	W. longitude
G12	(¹)	70°00'
IGB7	41°20'	70°00'
IGB6	41°20'	69°50'
IGB5	41°10'	69°50'
IGB4	41°10'	69°30'
IGB3	41°00'	69°30'
IGB2	41°00'	68°50'
SNEDA1	40°10'	68°50'
SNEDA2	40°10'	73°10'
SNEDA3	39°50'	73°10'
SNEDA4	39°50'	(²)

¹ South-facing shoreline of Cape Cod, MA.

² East-facing shoreline of NJ.

- (ii) **Differential DAS counting factor.** For determining the differential DAS counting AM specified in this paragraph (n)(1), or the inseason differential DAS counting adjustment specified in paragraph (o) of this section, the following differential DAS factor shall, except as provided in paragraph (n)(1)(iii) of this section, be applied to the DAS accrual rate specified in paragraph (e)(1) of this section, and implemented in a manner consistent with the Administrative Procedure Act.

Proportion of ACL caught	Differential DAS factor
0.5	0.5
0.6	0.6
0.7	0.7
0.8	0.8
0.9	No change
1.0	No change
1.1	1.1
1.2	1.2

Proportion of ACL caught	Differential DAS factor
1.3	1.3
1.4	1.4
1.5	1.5
1.6	1.6
1.7	1.7
1.8	1.8
1.9	1.9
2.0	2.0

- (iii) **Mixed-stock exception.** When determining the differential DAS counting AM specified in this paragraph (n)(1), the Regional Administrator shall conduct an analysis to determine whether the mixed-stock exception, as specified in § 600.310(m), may be applicable. If the analysis concludes that the mixed-stock exception is applicable, the Regional Administrator shall modify or not apply a differential DAS counting AM on specific stocks, as appropriate, in accordance with the mixed-stock exception.
- (iv) **Fishing year 2012.** Any adjustments to DAS counting necessary as a result of either underharvesting or overharvesting any of the sub-ACLs specified for common pool vessels during the 2011 fishing year pursuant to § 648.90(a)(4) shall become effective and remain effective for the duration of fishing year 2012 in addition to the implementation of the trimester TAC AM specified in paragraph (n)(2) of this section.
- (2) **Trimester TAC AM for fishing years 2012 and beyond.** Beginning in fishing year 2012, common pool vessels shall be subject to the following restrictions:
- (i) **Trimester TACs —**
- (A) **Trimester TAC distribution.** With the exception of SNE/MA winter flounder, any sub-ACLs specified for common pool vessels pursuant to § 648.90(a)(4) shall be apportioned into 4-month trimesters, beginning at the start of the fishing year (*i.e.*, Trimester 1: May 1-August 31; Trimester 2: September 1-December 31; Trimester 3: January 1-April 30), as follows:

PORTION OF COMMON POOL SUB-ACLs APPORTIONED TO EACH STOCK FOR EACH TRIMESTER

Stock	Trimester 1 (percent)	Trimester 2 (percent)	Trimester 3 (percent)
GB cod	28	34	38

Stock	Trimester 1 (percent)	Trimester 2 (percent)	Trimester 3 (percent)
GOM cod	49	33	18
GB haddock	27	33	40
GOM haddock	27	26	47
GB yellowtail flounder	19	30	51
SNE/MA yellowtail flounder	21	28	51
CC/GOM yellowtail flounder	57	26	17
American plaice	74	8	18
Witch flounder	55	20	25
GB winter flounder	8	24	68
GOM winter flounder	37	38	25
Redfish	25	31	44
White hake	38	31	31
Pollock	28	35	37

(B) **Trimester TAC adjustment.** For stocks that have experienced early closures (e.g., Trimester 1 or Trimester 2 closures), the Regional Administrator may use the biennial adjustment process specified in § 648.90 to revise the distribution of trimester TACs specified in paragraph (n)(2)(i)(A) of this section. Future adjustments to the distribution of trimester TACs shall use catch data for the most recent 5-year period prior to the reevaluation of trimester TACs.

(ii) **Stock area closures.** Unless otherwise specified in this paragraph (n)(2)(ii), if the Regional Administrator projects that 90 percent of the trimester TACs specified in paragraph (n)(2)(i) of this section will be caught based upon available information, the Regional Administrator shall close the area where 90 percent of the catch for each such stock occurred to all common pool vessels on a NE multispecies DAS using gear capable of catching such stocks for the remainder of that trimester, as specified in paragraphs (n)(2)(ii)(A) through (N) of this section, in a manner consistent with the Administrative Procedure Act. For example, if the Regional Administrator projects that 90 percent of the CC/GOM yellowtail flounder Trimester 1 TAC will be caught, common pool vessels using trawl and gillnet gear shall be prohibited from fishing in the CC/GOM Yellowtail Flounder Closure Area specified in paragraph (n)(2)(ii)(G) of this section until the beginning of Trimester 2 on September 1 of that fishing year. Based upon all available information, the Regional Administrator is authorized to expand or narrow the areas closed under this paragraph (n)(2)(ii) in a manner consistent with the Administrative Procedure Act. If it is not possible to identify an area where only 90 percent of the catch occurred, the Regional Administrator shall close the smallest area possible where greater than 90 percent of the catch occurred. Common pool vessels holding either a Handgear A or B permit and fishing with handgear or tub trawls are exempt from stock area closures for white hake. The Regional Administrator may exempt Handgear A and B permitted vessels from stock area closures for other stocks pursuant to this paragraph (n)(2)(ii) if it is determined that catches of the respective species or stock by these vessels are less than 1 percent of the common pool catch

of that species or stock. The Regional Administrator shall make such determination prior to the start of the fishing year through a notice published in the FEDERAL REGISTER, consistent with the Administrative Procedure Act, and any such determination shall remain in effect until modified.

- (A) **GB Cod Trimester TAC Area.** For the purposes of the trimester TAC AM closure specified in paragraph (n)(2)(ii) of this section, the GB Cod Trimester TAC Area shall apply to common pool vessels using trawl gear, sink gillnet gear, and longline/hook gear within the area bounded by straight lines connecting the following points in the order stated:

GB COD TRIMESTER TAC AREA

Point	N. Latitude	W. Longitude
1	42° 20'	70° 00'
2	42° 20'	(¹)
3	41° 50'	(¹)
4	41° 50'	67° 40'
5	41° 10'	67° 40'
6	41° 10'	67° 10'
7	41° 00'	67° 10'
8	41° 00'	67° 00'
9	40° 50'	67° 00'
10	40° 50'	66° 50'
11	40° 40'	66° 50'
12	40° 40'	66° 40'
13	39° 50'	66° 40'
14	39° 50'	68° 50'
15	41° 00'	68° 50'
16	41° 00'	69° 30'
17	41° 10'	69° 30'
18	41° 10'	69° 50'
19	41° 20'	69° 50'
20	41° 20'	(²)
21	(³)	70° 00'
22	(⁴)	70° 00'

¹ U.S./Canada maritime boundary.

² East-facing shoreline of Nantucket, MA.

³ North-facing shoreline of Nantucket, MA.

⁴ South-facing shoreline of Cape Cod, MA.

⁵ North-facing shoreline of Cape Cod, MA.

Point	N. Latitude	W. Longitude
23	(⁵)	70° 00'

¹ U.S./Canada maritime boundary.

² East-facing shoreline of Nantucket, MA.

³ North-facing shoreline of Nantucket, MA.

⁴ South-facing shoreline of Cape Cod, MA.

⁵ North-facing shoreline of Cape Cod, MA.

(B) **GOM Cod Trimester TAC Area.** For the purposes of the trimester TAC AM closure specified in paragraph (n)(2)(ii) of this section, the GOM Cod Trimester TAC Area shall apply to common pool vessels using trawl gear, sink gillnet gear, and longline/hook gear within the area bounded on the south, west, and north by the shoreline of the United States and bounded on the east by straight lines connecting the following points in the order stated:

GOM COD TRIMESTER TAC AREA

Point	N. Latitude	W. Longitude
1	(¹)	69° 20'
2	43° 40'	69° 20'
3	43° 40'	69° 00'
4	43° 10'	69° 00'
5	43° 10'	69° 10'
6	43° 00'	69° 10'
7	43° 00'	69° 20'
8	42° 50'	69° 20'
9	42° 50'	69° 40'
10	42° 20'	69° 40'
11	42° 20'	70° 00'

¹ Intersection with ME shoreline.

² North-facing shoreline of Cape Cod, MA.

Point	N. Latitude	W. Longitude
12	(²)	70° 00'

¹ Intersection with ME shoreline.

² North-facing shoreline of Cape Cod, MA.

(C) **GB Haddock Trimester TAC Area.** For the purposes of the trimester TAC AM closure specified in paragraph (n)(2)(ii) of this section, the GB Haddock Trimester TAC Area shall apply to common pool vessels using trawl gear, sink gillnet gear, and longline/hook gear within the area bounded by straight lines connecting the following points in the order stated:

GB HADDOCK TRIMESTER TAC AREA

Point	N. latitude	W. longitude
GB1	42°20'	70°00'
GB2	42°20'	(¹)
GB3	40°30'	(¹)
GB4	40°30'	66°40'
GB5	39°50'	66°40'
GB6	39°50'	68°50'
GB7	41°00'	68°50'
GB8	41°00'	69°30'
GB9	41°10'	69°30'
GB10	41°10'	69°50'
GB11	41°20'	69°50'
GB12	41°20'	(²)
GB13	(³)	70°00'
GB14	(⁴)	70°00'
GB15	(⁵)	70°00'

¹ U.S./Canada maritime boundary.

² East-facing shoreline of Nantucket, MA.

³ North-facing shoreline of Nantucket, MA.

⁴ South-facing shoreline of Cape Cod, MA.

⁵ North-facing shoreline of Cape Cod, MA.

Point	N. latitude	W. longitude
GB1	42°20'	70°00'

¹ U.S./Canada maritime boundary.

² East-facing shoreline of Nantucket, MA.

³ North-facing shoreline of Nantucket, MA.

⁴ South-facing shoreline of Cape Cod, MA.

⁵ North-facing shoreline of Cape Cod, MA.

(D) **GOM Haddock Trimester TAC Area.** For the purposes of the trimester TAC AM closure specified in paragraph (n)(2)(ii) of this section, the GOM Haddock Trimester TAC Area shall apply to common pool vessels using trawl gear, sink gillnet gear, and longline/hook gear within the area bounded on the south, west, and north by the shoreline of the United States and bounded on the east by straight lines connecting the following points in the order stated:

GOM HADDOCK TRIMESTER TAC AREA

Point	N. latitude	W. longitude
GOM1	(¹)	69°20'
GOM2	43°40'	69°20'
GOM3	43°40'	69°00'
GOM4	43°20'	69°00'
GOM5	43°20'	67°40'
GOM6	(²)	67°40'
GOM7	42°53.1'	67°44.4'
GOM8	(²)	67°40'
GOM9	42°20'	67°40'
GOM10	42°20'	70°00'

¹ Intersection with ME shoreline.

² U.S./Canada maritime boundary.

³ North-facing shoreline of Cape Cod, MA.

Point	N. latitude	W. longitude
GOM12	(³)	70°00'

¹ Intersection with ME shoreline.

² U.S./Canada maritime boundary.

³ North-facing shoreline of Cape Cod, MA.

- (E) **GB Yellowtail Flounder Trimester TAC Area.** For the purposes of the trimester TAC AM closure specified in paragraph (n)(2)(ii) of this section, the GB Yellowtail Flounder Trimester TAC Area shall apply to common pool vessels using trawl gear and sink gillnet gear within the area bounded by straight lines connecting the following points in the order stated:

GB YELLOWTAIL FLOUNDER TRIMESTER TAC AREA

Point	N. latitude	W. longitude
GB1	42°20'	68°50'
GB2	42°20'	(¹)
GB3	40°30'	(¹)
GB4	40°30'	66°40'
GB5	39°50'	66°40'
GB6	39°50'	68°50'

¹ U.S./Canada maritime boundary.

Point	N. latitude	W. longitude
GB1	42°20'	68°50'

¹ U.S./Canada maritime boundary.

- (F) **SNE/MA Yellowtail Flounder Trimester TAC Area.** For the purposes of the trimester TAC AM closure specified in paragraph (n)(2)(ii) of this section, the SNE/MA Yellowtail Flounder Trimester TAC Area shall apply to common pool vessels using trawl gear and sink gillnet gear within the area bounded by straight lines connecting the following points in the order stated:

SNE/MA YELLOWTAIL FLOUNDER TRIMESTER TAC AREA

Point	N. latitude	W. longitude
SNEMA1	(¹)	70°00'
SNEMA2	(²)	70°00'
SNEMA3	(³)	70°00'
SNEMA4	39°50'	70°00'
SNEMA5	39°50'	71°40'
SNEMA6	40°00'	71°40'
SNEMA7	40°00'	73°00'
SNEMA8	(⁴)	73°00'
SNEMA9	41°00'	(⁵)
SNEMA10	41°00'	71°40'

¹ South-facing shoreline of Cape Cod, MA.

² North-facing shoreline of Nantucket, MA.

³ South-facing shoreline of Nantucket, MA.

⁴ South-facing shoreline of Long Island, NY.

⁵ East-facing shoreline of Long Island, NY.

⁶ Intersection with RI shoreline.

Point	N. latitude	W. longitude
SNEMA11	(⁶)	71°40'

¹ South-facing shoreline of Cape Cod, MA.

² North-facing shoreline of Nantucket, MA.

³ South-facing shoreline of Nantucket, MA.

⁴ South-facing shoreline of Long Island, NY.

⁵ East-facing shoreline of Long Island, NY.

⁶ Intersection with RI shoreline.

(G) **CC/GOM Yellowtail Flounder Trimester TAC Area.** For the purposes of the trimester TAC AM closure specified in paragraph (n)(2)(ii) of this section, the CC/GOM Yellowtail Flounder Trimester TAC Area shall apply to common pool vessels using trawl gear and sink gillnet gear within the area bounded by straight lines connecting the following points in the order stated:

CC/GOM YELLOWTAIL FLOUNDER TRIMESTER TAC AREA

Point	N. latitude	W. longitude
CCGOM1	42°50'	(¹)
CCGOM2	42°50'	69°40'
CCGOM3	42°20'	69°40'
CCGOM4	42°20'	68°50'
CCGOM5	41°00'	68°50'
CCGOM6	41°00'	69°30'
CCGOM7	41°10'	69°30'
CCGOM8	41°10'	69°50'
CCGOM9	41°20'	69°50'
CCGOM10	41°20'	(²)
CCGOM11	(³)	70°00'

¹ Intersection with MA shoreline.

² East-facing shoreline of Nantucket, MA.

³ North-facing shoreline of Nantucket, MA.

⁴ South-facing shoreline of MA.

Point	N. latitude	W. longitude
CCGOM12	(⁴)	70°00'

¹ Intersection with MA shoreline.

² East-facing shoreline of Nantucket, MA.

³ North-facing shoreline of Nantucket, MA.

⁴ South-facing shoreline of MA.

(H) **American Plaice Trimester TAC Area.** For the purposes of the trimester TAC AM closure specified in paragraph (n)(2)(ii) of this section, the American Plaice Trimester TAC Area shall apply to common pool vessels using trawl gear within the area bounded by straight lines connecting the following points in the order stated:

AMERICAN PLAICE TRIMESTER TAC AREA

Point	N. Latitude	W. Longitude
1	(¹)	68°00'
2	44°10'	67°50'
3	44°00'	67°50'
4	44°00'	67°40'
5	(²)	67°40'
6	42°53.1'	67°44.4'
7	(²)	67°40'
8	41°10'	67°40'
9	41°10'	67°10'
10	41°00'	67°10'
11	41°00'	67°00'
12	40°50'	67°00'
13	40°50'	66°50'
14	40°40'	66°50'
15	40°40'	66°40'
16	39°50'	66°40'
17	39°50'	68°50'

¹ Intersection with ME shoreline.

² U.S./Canada maritime boundary.

³ East-facing shoreline of Nantucket, MA.

⁴ North-facing shoreline of Nantucket, MA.

⁵ South-facing shoreline of Cape Cod, MA.

Point	N. Latitude	W. Longitude
18	41°00'	68°50'
19	41°00'	69°30'
20	41°10'	69°30'
21	41°10'	69°50'
22	41°20'	69°50'
23	41°20'	(³)
24	(⁴)	70°00'
25	(⁵)	70°00'

¹ Intersection with ME shoreline.

² U.S./Canada maritime boundary.

³ East-facing shoreline of Nantucket, MA.

⁴ North-facing shoreline of Nantucket, MA.

⁵ South-facing shoreline of Cape Cod, MA.

- (I) **Witch Flounder Trimester TAC Area.** For the purposes of the trimester TAC AM closure specified in paragraph (n)(2)(ii) of this section, the Witch Flounder Trimester TAC Area shall apply to common pool vessels using trawl gear within the area bounded by straight lines connecting the following points in the order stated:

WITCH FLOUNDER TRIMESTER TAC AREA

Point	N. Latitude	W. Longitude
1	(¹)	68°00'
2	44°10'	67°50'
3	44°00'	67°50'
4	44°00'	67°40'
5	(²)	67°40'
6	42°53.1'	67°44.4'
7	(²)	67°40'
8	41°10'	67°40'
9	41°10'	67°10'

¹ Intersection with ME shoreline.

² U.S./Canada maritime boundary.

³ East-facing shoreline of Nantucket, MA.

⁴ North-facing shoreline of Nantucket, MA.

⁵ South-facing shoreline of Cape Cod, MA.

Point	N. Latitude	W. Longitude
10	41°00'	67°10'
11	41°00'	67°00'
12	40°50'	67°00'
13	40°50'	66°50'
14	40°40'	66°50'
15	40°40'	66°40'
16	39°50'	66°40'
17	39°50'	68°50'
18	41°00'	68°50'
19	41°00'	69°30'
20	41°10'	69°30'
21	41°10'	69°50'
22	41°20'	69°50'
23	41°20'	(³)
24	(⁴)	70°00'
25	(⁵)	70°00'

¹ Intersection with ME shoreline.

² U.S./Canada maritime boundary.

³ East-facing shoreline of Nantucket, MA.

⁴ North-facing shoreline of Nantucket, MA.

⁵ South-facing shoreline of Cape Cod, MA.

(J) **GB Winter Flounder Trimester TAC Area.** For the purposes of the trimester TAC AM closure specified in paragraph (n)(2)(ii) of this section, the GB Winter Flounder Trimester TAC Area shall apply to common pool vessels using trawl gear within the area bounded by straight lines connecting the following points in the order stated:

GB WINTER FLOUNDER TRIMESTER TAC AREA

Point	N. Latitude	W. Longitude
1	42°20'	68°50'
2	42°20'	(¹)
3	40°30'	(¹)
4	40°30'	66°40'
5	39°50'	66°40'

¹ U.S./Canada maritime boundary

Point	N. Latitude	W. Longitude
6	39°50'	68°50'

¹ U.S./Canada maritime boundary

- (K) **GOM Winter Flounder Trimester TAC Area.** For the purposes of the trimester TAC AM closure specified in paragraph (n)(2)(ii) of this section, the GOM Winter Flounder Trimester TAC Area shall apply to common pool vessels using trawl gear and sink gillnet gear within the area bounded by straight lines connecting the following points in the order stated:

GOM WINTER FLOUNDER TRIMESTER TAC AREA

Point	N. latitude	W. longitude
GOM1	42°50'	(¹)
GOM2	42°50'	69°40'
GOM3	42°20'	69°40'
GOM4	42°20'	70°00'
GOM5	(²)	70°00'

¹ Intersection with MA shoreline

² North-facing shoreline of Cape Cod, MA

- (L) **Redfish Trimester TAC Area.** For the purposes of the trimester TAC AM closure specified in paragraph (n)(2)(ii) of this section, the Redfish Trimester TAC Area shall apply to common pool vessels using trawl gear within the area bounded by straight lines connecting the following points in the order stated:

REDFISH TRIMESTER TAC AREA

Point	N. latitude	W. longitude
RF1	(¹)	69°20'

¹ Intersection with ME shoreline.

² U.S./Canada maritime boundary.

³ East-facing shoreline of Nantucket, MA.

⁴ North-facing shoreline of Nantucket, MA.

⁵ South-facing shoreline of Cape Cod, MA.

Point	N. latitude	W. longitude
RF2	43°40'	69°20'
RF3	43°40'	69°00'
RF4	43°20'	69°00'
RF5	43°20'	67°40'
RF6	(²)	67°40'
RF7	42°53.1'	67°44.4'
RF8	(²)	67°40'
RF9	41°20'	67°40'
RF10	41°20'	68°10'
RF11	41°10'	68°10'
RF12	41°10'	68°20'
RF13	41°00'	68°20'
RF14	41°00'	69°30'
RF15	41°10'	69°30'
RF16	41°10'	69°50'
RF17	41°20'	69°50'
RF18	41°20'	(³)
RF19	(⁴)	70°00'

¹ Intersection with ME shoreline.

² U.S./Canada maritime boundary.

³ East-facing shoreline of Nantucket, MA.

⁴ North-facing shoreline of Nantucket, MA.

⁵ South-facing shoreline of Cape Cod, MA.

Point	N. latitude	W. longitude
RF20	(⁵)	70°00'

¹ Intersection with ME shoreline.

² U.S./Canada maritime boundary.

³ East-facing shoreline of Nantucket, MA.

⁴ North-facing shoreline of Nantucket, MA.

⁵ South-facing shoreline of Cape Cod, MA.

(M) **White Hake Trimester TAC Area.** For the purposes of the trimester TAC AM closure specified in paragraph (n)(2)(ii) of this section, the White Hake Trimester TAC Area shall apply to common pool vessels using trawl gear, sink gillnet gear, and longline/hook gear, except for Handgear A and B permitted vessels using handgear or tub trawls, within the area bounded by straight lines connecting the following points in the order stated:

WHITE HAKE TRIMESTER TAC AREA

Point	N. Latitude	W. Longitude
1	(¹)	69°20'
2	43°40'	69°20'
3	43°40'	69°00'
4	43°20'	69°00'
5	43°20'	67°40'
6	(²)	67°40'
7	42°53.1'	67°44.4'
8	(²)	67°40'
9	41°20'	67°40'
10	41°20'	68°10'
11	41°10'	68°10'
12	41°10'	68°20'
13	41°00'	68°20'
14	41°00'	69°30'
15	41°10'	69°30'

¹ Intersection with ME shoreline.

² U.S./Canada maritime boundary.

³ East-facing shoreline of Nantucket, MA.

⁴ North-facing shoreline of Nantucket, MA.

⁵ South-facing shoreline of Cape Cod, MA.

Point	N. Latitude	W. Longitude
16	41°10'	69°50'
17	41°20'	69°50'
18	41°20'	(³)
19	(⁴)	70°00'
20	(⁵)	70°00'

¹ Intersection with ME shoreline.

² U.S./Canada maritime boundary.

³ East-facing shoreline of Nantucket, MA.

⁴ North-facing shoreline of Nantucket, MA.

⁵ South-facing shoreline of Cape Cod, MA.

(N) **Pollock Trimester TAC Area.** For the purposes of the trimester TAC AM closure specified in paragraph (n)(2)(ii) of this section, the Pollock Trimester TAC Area shall apply to common pool vessels using trawl gear, sink gillnet gear, and longline/hook gear within the area bounded by straight lines connecting the following points in the order stated:

POLLOCK TRIMESTER TAC AREA

Point	N. latitude	W. longitude
RF1	(¹)	69°20'
RF2	43°40'	69°20'
RF3	43°40'	69°00'
RF4	43°20'	69°00'
RF5	43°20'	67°40'
RF6	(²)	67°40'
RF7	42°53.1'	67°44.4'
RF8	(²)	67°40'
RF9	41°20'	67°40'
RF10	41°20'	68°10'
RF11	41°10'	68°10'
RF12	41°10'	68°20'

¹ Intersection with ME shoreline.

² U.S./Canada maritime boundary.

³ East-facing shoreline of Nantucket, MA.

⁴ North-facing shoreline of Nantucket, MA.

⁵ South-facing shoreline of Cape Cod, MA.

Point	N. latitude	W. longitude
RF13	41°00'	68°20'
RF14	41°00'	69°30'
RF15	41°10'	69°30'
RF16	41°10'	69°50'
RF17	41°20'	69°50'
RF18	41°20'	(³)
RF19	(⁴)	70°00'
RF20	(⁵)	70°00'

¹ Intersection with ME shoreline.

² U.S./Canada maritime boundary.

³ East-facing shoreline of Nantucket, MA.

⁴ North-facing shoreline of Nantucket, MA.

⁵ South-facing shoreline of Cape Cod, MA.

- (iii) **Trimester TAC overage/underage.** If any trimester TAC, as specified in paragraph (n)(2)(i) of this section, is not caught during Trimester 1 or 2, the uncaught portion of the trimester TAC shall be carried forward into the next trimester. Uncaught portions of any trimester TAC following Trimester 3 may not be carried over into the following fishing year. If any trimester TAC is exceeded during the Trimesters 1 or 2, the overage shall be deducted from the Trimester 3 TAC for that stock. If the entire sub-ACL for a particular stock that is allocated to the common pool is exceeded (i.e., the common pool catch of that stock at the end of the fishing year, including the common pool's share of any overage of the overall ACL for a particular stock caused by excessive catch by other sub-components of the fishery pursuant to § 648.90(a)(5), exceeds all three trimester TACs for that stock combined), an amount equal to the overage shall be deducted from the sub-ACL for that stock that is allocated to common pool vessels pursuant to § 648.90(a)(4) for the following fishing year.
- (iv) [Reserved]
- (v) **Adjustments to trimester TACs.** The distribution of trimester TACs specified in paragraph (n)(2)(i) of this section may be revised pursuant to the biennial adjustment or framework process specified in § 648.90(a)(2) and shall use the distribution of landings of the most recent 5-year period available.
- (vi) **Trip limit adjustment.** When 60 percent of the northern or southern windowpane flounder, ocean pout, or Atlantic halibut sub-ACLs specified for common pool vessels pursuant to § 648.90(a)(4)(iii)(H)(2) is projected to be caught, the Regional Administrator may specify, consistent with the APA, a possession limit for these stocks that is calculated to prevent the yearly sub-ACL from being exceeded prior to the end of the fishing year.
- (vii) **SNE/MA winter flounder AM.** If the common pool fishery sub-ACL for SNE/MA winter flounder is exceeded, including the common pool's share of any overage of the total ACL, as specified at § 648.90(a)(5), by an amount that exceeds the management uncertainty buffer, the AM described in this paragraph would be implemented in the following fishing year. The AM would be

effective for the entire fishing year. Common pool vessels fishing on a NE Multispecies DAS with trawl gear may only use a haddock separator trawl, as specified in § 648.85(a)(3)(iii)(A); a Ruhle trawl, as specified in § 648.85(b)(6)(iv)(J)(3); a rope separator trawl, as specified in § 648.84(e); or any other gear approved consistent with the process defined in § 648.85(b)(6) in the SNE/MA Winter Flounder Trawl Gear AM Areas. The AM areas are defined below, and are bounded by the following coordinates, connected in the order listed by straight lines, unless otherwise noted.

SNE/MA WINTER FLOUNDER TRAWL GEAR AM AREA 1

Point	N. Latitude	W. Longitude
1	41°10'	71°40' ¹
2	41°10'	71°20'
3	41°00'	71°20'
4	41°00'	71°40'

¹ Point 1 connects to Point 2 along 41°10' N or the southern coastline of Block Island, RI, whichever is farther south.

SNE/MA WINTER FLOUNDER TRAWL GEAR AM AREA 2

Point	N. Latitude	W. Longitude
1	41°20'	70°30'
2	41°20'	70°20'
3	41°00'	70°20'
4	41°00'	70°30'

SNE/MA WINTER FLOUNDER TRAWL GEAR AM AREA 3

Point	N. Latitude	W. Longitude
1	41°20'	69°20'
2	41°20'	69°10'
3	41°10'	69°10'

Point	N. Latitude	W. Longitude
4	41°10'	69°20'

SNE/MA WINTER FLOUNDER TRAWL GEAR AM AREA 4

Point	N. Latitude	W. Longitude
1	41°20'	69°20'
2	41°20'	(¹)
3	(¹)	69°00'
4	41°00'	69°00'
5	41°00'	69°10'
6	41°10'	69°10'
7	41°10'	69°20'

(¹) The southwest-facing boundary of Closed Area I.

(o) *Inseason adjustment to differential DAS counting for NE multispecies common pool vessels.*

- (1) In addition to the DAS accrual provisions specified in paragraphs (e) and (n) of this section, and other measures specified in this part, common pool vessels are subject to the following restrictions: The Regional Administrator shall project the catch of regulated species or ocean pout by common pool vessels and shall determine whether such catch will exceed any of the sub-ACLs specified for common pool vessels as described in § 648.90(a)(4). This projection shall include catch by common pool vessels, as well as available information, regarding the catch of regulated species and ocean pout by vessels fishing for NE multispecies in State waters outside of the authority of the FMP, vessels fishing in exempted fisheries, and vessels fishing in the Atlantic sea scallop fishery. If it is projected that catch will exceed or under-harvest the common pool sub-ACL, the Regional Administrator may, at any time during the fishing year, implement a differential DAS counting factor to all Category A DAS used within the pertinent stock area(s), as specified in paragraph (n)(1)(i) of this section, in a manner consistent with the Administrative Procedure Act. Notwithstanding the fact that the differential DAS accountability measures described in paragraph (n)(1) of this section are intended to address potential over-harvests in fishing year 2010 and 2011, the scope of the Regional Administrator authority specified in this paragraph (o) is not limited to FY 2010 and 2011.
- (2) The differential DAS counting factor shall be based on the projected proportion of the sub-ACL of each NE multispecies stock caught by common pool vessels, rounded to the nearest even tenth, as specified in paragraph (n)(1)(ii) of this section, unless otherwise specified in § 648.90(a)(5). For example, if the Regional Administrator projects that common pool vessels will catch 1.18 times the sub-ACL for GOM cod by the end of fishing year 2010, the Regional Administrator may implement a differential DAS counting factor of 1.2 to all Category A DAS used by common pool vessels within the Inshore GOM Differential DAS Area during fishing year 2010 (*i.e.*, Category A DAS will be charged

at a rate of 28.8 hr for every 24 hr fished—1.2 times 24-hr DAS counting). If it is projected that catch will simultaneously exceed or underharvest the sub-ACLs for several regulated species stocks within a particular stock area, the Regional Administrator may implement the most restrictive differential DAS counting factor derived from paragraph (n)(1)(ii) of this section for the sub-ACLs exceeded or underharvested to any Category A DAS used by common pool vessels within that particular stock area. For example, if it is projected that the common pool vessel catch will exceed the GOM cod sub-ACL by a factor of 1.2 and the CC/GOM yellowtail flounder sub-ACL by a factor of 1.1, the Regional Administrator may implement a differential DAS counting factor of 1.2 to any Category A DAS fished by common pool vessels within the Inshore GOM Differential DAS Area during the fishing year. For any inseason differential DAS counting factor implemented, the differential DAS counting factor shall be applied against the DAS accrual provisions specified in paragraph (e)(1)(i) of this section for the time spent fishing in the applicable differential DAS counting area based upon the first VMS position into the applicable differential DAS counting area and the first VMS position outside of the applicable differential DAS counting area pursuant to § 648.10. For example, if a vessel fished 12 hr inside a differential DAS counting area where a differential DAS counting factor of 1.2 would be applied, and 12 hr outside of the differential DAS counting area, the vessel would be charged 48 hr of DAS, because DAS would be charged in 24-hr increments ((12 hr inside the area $\times$ 1.2 = 14.4 hr) + 12 hr outside the area, rounded to the next 24-hr increment to determine DAS charged).

- (3) For any inseason differential DAS counting factor implemented in fishing year 2011, the inseason differential DAS counting factor shall be applied in accordance with the DAS accrual provisions specified in paragraph (e)(1)(i) of this section, and, if pursuant to paragraph (n)(1) of this section, in conjunction with a differential DAS counting factor also implemented for the same differential DAS area during fishing year 2011 as an AM. For example, if a differential DAS counting factor of 1.2 was applied to the Inshore GOM Differential DAS Area during fishing year 2011, as an AM due to a 20-percent overage of the GOM cod sub-ACL in fishing year 2010, and during fishing year 2011 the GOM cod sub-ACL was projected to be exceeded by 30 percent, an additional differential DAS factor of 1.3 would be applied to the DAS accrual rate as an inseason action during fishing year 2011. Under this example, the DAS accrual rate after both the AM and the inseason differential DAS rate is applied to FY 2011 in the Inshore GOM Differential DAS Counting Area would be 37.4 hr charged for every 24 hr fished— $1.2 \times 1.3 \times 24$ -hr DAS charge.

[69 FR 22969, Apr. 27, 2004]

Editorial Notes: 1. For FEDERAL REGISTER citations affecting § 648.82, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.govinfo.gov.

2. At 75 FR 18319, Apr. 9, 2010, in § 648.82, paragraph (e)(1)(ii) was revised, however no (e)(1)(ii) existed, so it could not be revised.

§ 648.83 Multispecies minimum fish sizes.

- (a) *Minimum fish sizes.*

- (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 §§ 648.11(l)(10)(i)(E) and 648.17, all other vessels are subject to the following minimum fish sizes, determined by total length (TL):

TABLE 1 TO PARAGRAPH (a)(1)—MINIMUM FISH SIZES (TL) FOR COMMERCIAL VESSELS

Species	Size in inches
Cod	19 (48.3 cm).
Haddock	16 (40.6 cm).
Pollock	19 (48.3 cm).
Witch flounder (gray sole)	13 (33 cm).
Yellowtail flounder	12 (30.5 cm).
American plaice (dab)	12 (30.5 cm).
Atlantic halibut	41 (104.1 cm).
Winter flounder (blackback)	12 (30.5 cm).
Redfish	7 (17.8 cm).

- (2) The minimum fish size applies to whole fish or to any part of a fish while possessed on board a vessel, except as provided in paragraph (b) of this section, and to whole, whole-gutted or gilled fish only, after landing. For purposes of determining compliance with the possession limits in § 648.86, the weight of fillets and parts of fish, other than whole-gutted or gilled fish, will be multiplied by 3. Fish fillets, or parts of fish, must have skin on while possessed on board a vessel and at the time of landing in order to meet minimum size requirements. “Skin on” means the entire portion of the skin normally attached to the portion of the fish or to fish parts possessed is still attached.

(b) Exceptions.

- (1) Each person aboard a vessel issued a NE multispecies limited access permit and fishing under the NE multispecies DAS program or on a sector trip may possess up to 25 lb (11.3 kg) of fillets that measure less than the minimum size, if such fillets are from legal-sized fish and are not offered or intended for sale, trade, or barter. The weight of fillets and parts of fish, other than whole-gutted or gilled fish, shall be multiplied by 3. For the purposes of accounting for all catch by sector vessels as specified at § 648.87(b)(1)(v), the weight of all fillets and parts of fish, other than whole-gutted or gilled fish reported for at-home consumption shall be multiplied by a factor of 3.
- (2) Recreational, party, and charter vessels may possess fillets less than the minimum size specified, if the fillets are taken from legal-sized fish and are not offered or intended for sale, trade or barter.
- (3) Vessels fishing exclusively with pot gear may possess NE multispecies frames used, or to be used, as bait, that measure less than the minimum fish size, if there is a receipt for purchase of those frames on board the vessel.

- (4) Vessels that have a Category A or B Herring Permit may possess and land haddock and other regulated species that are smaller than the minimum size specified under § 648.83, consistent with the bycatch caps specified in § 648.86(a)(3) and (k). Such fish may not be sold for human consumption.

(c) **Adjustments.**

- (1) At any time when information is available, the NEFMC will review the best available mesh selectivity information to determine the appropriate minimum size for the species listed in paragraph (a) of this section, except winter flounder, according to the length at which 25 percent of the regulated species would be retained by the applicable minimum mesh size.
- (2) Upon determination of the appropriate minimum sizes, the NEFMC shall propose the minimum fish sizes to be implemented following the procedures specified in § 648.90.
- (3) Additional adjustments or changes to the minimum fish sizes specified in paragraph (a) of this section, and exemptions specified in paragraph (b) of this section, may be made at any time after implementation of the final rule as specified under § 648.90.

[69 FR 22974, Apr. 27, 2004, as amended at 71 FR 46876, Aug. 15, 2006; 72 FR 11276, Mar. 12, 2007; 75 FR 18328, Apr. 9, 2010; 76 FR 42585, July 19, 2011; 78 FR 26158, May 3, 2013; 85 FR 26885, May 6, 2020; 87 FR 75886, Dec. 9, 2022]

§ 648.84 Gear-marking requirements and gear restrictions.

- (a) Bottom-tending fixed gear, including, but not limited to, gillnets and longlines designed for, capable of, or fishing for NE multispecies or monkfish, must have the name of the owner or vessel or the official number of that vessel permanently affixed to any buoys, gillnets, longlines, or other appropriate gear so that the name of the owner or vessel or the official number of the vessel is visible on the surface of the water.
- (b) Bottom-tending fixed gear, including, but not limited to gillnets or longline gear, must be marked so that the westernmost end (measuring the half compass circle from magnetic south through west to, and including, north) of the gear displays a standard 12-inch (30.5-cm) tetrahedral corner radar reflector and a pennant positioned on a staff at least 6 ft (1.8 m) above the buoy. The easternmost end (meaning the half compass circle from magnetic north through east to, and including, south) of the gear need display only the standard 12-inch (30.5-cm) tetrahedral radar reflector positioned in the same way.
- (c) Continuous gillnets must not exceed 6,600 ft (2,011.7 m) between the end buoys.
- (d) In the GOM and GB regulated mesh area specified in § 648.80(a), gillnet gear set in an irregular pattern or in any way that deviates more than 30° from the original course of the set must be marked at the extremity of the deviation with an additional marker, which must display two or more visible streamers and may either be attached to or independent of the gear.
- (e) **Rope separator trawl.** A rope separator trawl is defined as a four-seam bottom trawl net (i.e., a net with a top and bottom panel and two side panels) modified to include both a horizontal separator panel and an escape opening in the bottom belly of the net below the separator panel, as further specified in paragraphs (e)(1) through (3) of this section.
 - (1) **Mesh size.** The minimum mesh size applied throughout the body and extension of a rope separator trawl must be 6-inch (15.2-cm) diamond mesh or 6.5-inch (16.5-cm) square mesh, or any combination thereof. Mesh in the bottom belly of the net must be 13-inch (33-cm) diamond mesh. Unless otherwise specified in this part, the codend mesh size must be consistent with mesh size

requirements specified in § 648.80. The mesh size of a particular section of the rope separator trawl is measured in accordance with § 648.80(f)(2), unless insufficient numbers of mesh exist, in which case the maximum total number of meshes in the section will be measured (between 2 and 20 meshes).

- (2) **Separator panel.** The separator panel must consist of parallel lines made of fiber rope, the ends of which are attached to each side of the net starting at the forward edge of the square of the net and running aft toward the extension of the net. The leading rope must be attached to the side panel at a point at least $\frac{1}{3}$ of the number of meshes of the side panel above the lower gore, and the panel of ropes shall slope downward toward the extension of the net. For example, if the side panel of the net is 42 meshes tall, the leading rope must be attached at least 14 meshes above the lower gore. The forward $\frac{2}{3}$ of the separator ropes that comprise the separator panel must be no farther than 26 inches (66 cm) apart, with the after $\frac{1}{3}$ of the separator ropes that comprise the separator panel being no farther than 13 inches (33 cm) apart. The ends of the aftermost rope shall be attached to the bottom belly at a point $\frac{1}{6}$ of the number of meshes of the after end of the bottom belly below the lower gore. The separator ropes should be of sufficient length not to impinge upon the overall shape of the net without being too long to compromise the selectivity of the net. The separator ropes may not be manipulated in any way that would inhibit the selectivity of the net by causing the separator ropes to dip toward the bottom belly of the net and obscure the escape opening, as defined in paragraph (e)(3) of this section.
 - (3) **Escape opening.** The escape opening must be positioned in the bottom belly of the net behind the sweep and terminate under the separator panel, as described in paragraph (e)(2) of this section. Longitudinal lines may be used to maintain the shape of the escape opening, as necessary. The escape opening shall be at least 18 meshes in both length and width.
- (f) **Large-mesh belly panel trawl.** A large-mesh belly panel trawl is defined as a four-seam bottom trawl net (i.e., a net with a top and bottom panel and two side panels) modified to include a large-mesh panel to replace the first bottom belly, as further specified in paragraphs (f)(1) through (3) of this section.
- (1) **Mesh size.** The minimum mesh size applied throughout the body of the trawl, as well as the codend mesh size, must be consistent with mesh size requirements specified in § 648.80. If a vessel is fishing in an exemption area or an exempted fishery, it must comply with all of the requirements and conditions of the exemption.
 - (2) **Large-mesh belly panel.** The large-mesh belly panel must have a minimum mesh size of 30 in (76.2 cm) measured using the standard defined in § 648.80(f)(2). The owner or operator of a fishing vessel shall not use any mesh construction, mesh configuration, or other means on, in, or attached to the regulated portion of the net, as defined in this paragraph (f)(2), if it obstructs or constricts the meshes of the net in any manner. The width of the panel must extend the full width of the bottom panel (i.e., from one bottom gore to the other bottom gore). To determine the width of the large-mesh panel please see the explanation, and example provided below. The depth must be at least 90 in (228.6 cm) and at least three meshes deep (two meshes deep with a 15-in (38.1-cm) sewing seam on top and bottom). No more than six meshes of the small-mesh net may be left behind the sweep, before the large-mesh panel is sewn in.
 - (3) **Determining panel width example.** Assume the large-mesh twine is 30 in (76.2 cm) knot center to knot center (KKFM), two meshes deep with a 15-in (38.1-cm) sewing seam on the top and bottom. In most cases, the existing first bottom-belly twine sizes are 12 cm (4.7 in) KKFM and 16 cm (6.3 in) KKFM yielding ratios of 20:3 and 5:1, respectively. Therefore, to determine the required width of large

mesh panel, take the number of meshes of the existing belly and divide by the ratio. If the existing twine is 16 cm (6.3 in) KKF, and the belly, six meshes behind the sweep is 150 meshes wide, you would divide 150 by 5:1 to get the width of the large-mesh panel, 30 meshes.

[69 FR 22974, Apr. 27, 2004, as amended at 78 FR 26158, May 3, 2013; 85 FR 13073, Mar. 6, 2020]

§ 648.85 Special management programs.

- (a) **U.S./Canada Resource Sharing Understanding.** No NE multispecies fishing vessel, or person on such vessel, may enter, fish in, or be in the U.S./Canada Resource Sharing Understanding Management Areas (U.S./Canada Management Areas), as defined in paragraph (a)(1) of this section, unless the vessel is fishing in accordance with the restrictions and conditions of this section. These restrictions do not preclude fishing under an approved Special Access Program specified under paragraph (b) of this section.
- (1) **U.S./Canada Management Areas.** A vessel issued a NE multispecies permit that meets the requirements of paragraph (a)(3) of this section may fish in the U.S./Canada Management Areas described in paragraphs (a)(1)(i) and (ii) of this section.
- (i) **Western U.S./Canada Area.** The Western U.S./Canada Area is the area defined by straight lines connecting the following points in the order stated (a chart depicting this area is available from the Regional Administrator upon request):

WESTERN U.S./CANADA AREA

Point	N. lat.	W. long.
USCA 1	42°20'	68°50'
USCA 2	39°50'	68°50'
USCA 3	39°50'	66°40'
USCA 4	40°40'	66°40'
USCA 5	40°40'	66°50'
USCA 6	40°50'	66°50'
USCA 7	40°50'	67°00'
USCA 8	41°00'	67°00'
USCA 9	41°00'	67°20'
USCA 10	41°10'	67°20'
USCA 11	41°10'	67°40'
USCA 12	42°20'	67°40'

Point	N. lat.	W. long.
USCA 1	42°20'	68°50'

- (ii) **Eastern U.S./Canada Area.** The Eastern U.S./Canada Area is the area defined by straight lines connecting the following points in the order stated (a chart depicting this area is available from the Regional Administrator upon request):

EASTERN U.S./CANADA AREA

Point	N. latitude	W. longitude
USCA 12	42°20'	67°40'
USCA 11	41°10'	67°40'
USCA 10	41°10'	67°20'
USCA 9	41°00'	67°20'
USCA 8	41°00'	67°00'
USCA 7	40°50'	67°00'
USCA 6	40°50'	66°50'
USCA 5	40°40'	66°50'
USCA 4	40°40'	66°40'
USCA 15	40°30'	66°40'
USCA 14	40°30'	65°44.3'
USCA 13	42°20'	67°18.4'
USCA 12	42°20'	67°40'

(2) **TAC allocation —**

- (i) **Process for establishing TACs.** The amount of GB cod and haddock TAC that may be harvested from the Eastern U.S./Canada Area described in paragraph (a)(1)(ii) of this section, and the amount of GB yellowtail flounder TAC that may be harvested from the Western U.S./Canada Area and the Eastern U.S./Canada Area, as described in paragraphs (a)(1)(i) and (ii) of this section, combined, shall be determined by the process specified in paragraphs (a)(2)(i)(A) through (D) of this section.
- (A) To the extent practicable, by June 30 of each year, the Terms of Reference for the U.S./Canada shared resources for GB cod, haddock, and yellowtail flounder shall be established by the Steering Committee and the Transboundary Management Guidance Committee (TMGC).

- (B) To the extent practicable, by July 31 of each year, a Transboundary Resource Assessment Committee (TRAC) joint assessment of the U.S./Canada shared resources for GB cod, haddock and yellowtail flounder shall occur.
 - (C) To the extent practicable, by August 31 of each year, the TMGC shall recommend TACs for the U.S./Canada shared resources for GB cod, haddock, and yellowtail flounder. Prior to October 31 of each year, the Council may refer any or all recommended TACs back to the TMGC and request changes to any or all TACs. The TMGC shall consider such recommendations and respond to the Council prior to October 31.
 - (D) To the extent practicable, by October 31 of each year, the Council shall review the TMGC recommended TACs for the U.S. portion of the U.S./Canada Management Area resources for GB cod, haddock, and yellowtail flounder. Based on the TMGC recommendations, the Council shall recommend to the Regional Administrator the U.S. TACs for the shared stocks for the subsequent fishing year as a subset of the ACLs for these stocks available to the commercial fishery pursuant to § 648.90(a)(4). NMFS shall review the Council's recommendations and shall publish the proposed TACs in the FEDERAL REGISTER and provide a 30-day public comment period. NMFS shall make a final determination concerning the TACs and publish notification of the approved TACs and responses to public comments in the FEDERAL REGISTER. The Council, at this time, may also consider modification of management measures in order to ensure compliance with the U.S./Canada Resource Sharing Understanding. Any changes to management measures will be modified pursuant to § 648.90.
- (ii) **TAC Overages.** Any overages of the overall Eastern GB cod, Eastern GB haddock, and GB yellowtail flounder U.S. TACs caused by an overage of the component of the U.S. TAC specified for either the common pool, individual sectors, the scallop fishery, or any other fishery, pursuant to this paragraph (a)(2) and § 648.90(a)(4), that occur in a given fishing year shall be subtracted from the respective TAC component responsible for the overage in the following fishing year and may be subject to the overall groundfish AM provisions as specified in § 648.90(a)(5)(ii) if the overall ACL for a particular stock in a given fishing year, specified pursuant to § 648.90(a)(4), is exceeded.
- (iii) **Distribution of TACs.** For stocks managed by the U.S./Canada Resource Sharing Understanding, as specified in paragraph (a)(1) of this section, the TAC allocation determined pursuant to this paragraph (a)(2) shall be distributed between sectors approved pursuant to § 648.87(c), common pool vessels, scallop vessels, and other applicable fisheries, as specified in § 648.90(a)(4). Approved sectors will be allocated ACE for Eastern GB cod and Eastern GB haddock proportional to the sector's allocation of the overall ACL for these stocks, based upon the fishing histories of sector vessels, as specified in § 648.87(b)(1)(i). Any ACE for Eastern GB cod and Eastern GB haddock allocated to an individual sector is considered a subset of the overall GB cod and GB haddock ACE allocated to that sector and may only be harvested from the Eastern U.S./Canada Area, while the remaining ACE for GB cod and GB haddock available to that sector may only be harvested outside of the Eastern U.S./Canada Area. For example, if a sector is allocated 10 percent of the GB haddock ACL, it will also be allocated 10 percent of the Eastern GB haddock TAC for that particular fishing year.
- (iv) **Inseason TAC Adjustments.** For FY 2014 only, the Regional Administrator, in consultation with the Council, may adjust the FY 2014 TACs for the U.S./Canada shared resources inseason consistent with any quota trade recommendations made by the TMGC and/or Steering

Committee, and approved by the Regional Administrator. Any such inseason adjustment to the FY 2014 TACs may only increase the TAC available to the U.S. fishery, and may not reduce the TAC amount distributed in FY 2014 to any fishery component as specified in paragraph (a)(2)(iii) of this section. The revised FY 2014 TAC(s) shall be distributed consistent with the process specified in paragraph (a)(2)(iii) of this section. For example, if the U.S. receives additional yellowtail flounder TAC in FY 2014, and trades away a portion of its FY 2015 haddock TAC, the Regional Administrator would increase the FY 2014 U.S. TAC for yellowtail flounder inseason consistent with the process specified in this paragraph (a)(2)(iv). The adjustment to the FY 2015 U.S. TAC for haddock would be made as part of the process for establishing TACs, as described in paragraph (a)(2)(i)(C) of this section.

- (3) **Requirements for vessels in U.S./Canada Management Areas.** Any common pool or sector vessel, provided the sector to which a vessel belongs is allocated ACE for stocks caught in the Eastern U.S./Canada Area pursuant to paragraph (a)(2)(iii) of this section and § 648.87(b)(1)(i), may fish in the U.S./Canada Management Areas, provided it complies with conditions and restrictions of this section. A vessel other than a NE multispecies vessel may fish in the U.S./Canada Management Area, subject to the restrictions specified in paragraph (a)(3)(iv)(E) of this section and all other applicable regulations for such vessels.
- (i) **VMS requirement.** A NE multispecies vessel fishing in the U.S./Canada Management Areas described in paragraph (a)(1) of this section must have installed on board an operational VMS unit that meets the minimum performance criteria specified in §§ 648.9 and 648.10.
- (ii) **Declaration.** To fish in the U.S./Canada Management Area under a NE multispecies DAS or on a sector trip, a NE multispecies vessel must declare through the VMS the specific area within the U.S./Canada Management Areas, as described in paragraphs (a)(1)(i) or (ii) of this section, or the specific SAP within the U.S./Canada Management Areas, as described in paragraph (b) of this section, the vessel will be fishing in prior to leaving the dock, in accordance with instructions to be provided by the Regional Administrator, and must comply with the restrictions and conditions in paragraphs (a)(3)(ii)(A) through (C) of this section. Vessels other than NE multispecies vessels are not required to declare into the U.S./Canada Management Areas.
- (A) A common pool vessel fishing under a NE multispecies DAS in the Eastern U.S./Canada Area may fish both inside and outside of the Eastern U.S./Canada Area on the same trip, provided it complies with the most restrictive DAS counting requirements specified in § 648.10(e)(5), trip limits, and reporting requirements for the areas fished for the entire trip, and the restrictions specified in paragraphs (a)(3)(ii)(A)(1) through (4) of this section. A vessel on a sector trip may fish both inside and outside of the Eastern U.S./Canada Area on the same trip, provided it complies with the restrictions specified in paragraphs (a)(3)(ii)(A)(1) through (3) of this section. When a vessel operator elects to fish both inside and outside of the Eastern U.S./Canada Area, all cod and haddock caught on that trip will be apportioned by area fished, as determined by all available data sources, and those portions of the catch taken inside the Eastern U.S./Canada Area shall count toward the applicable hard TAC specified for the U.S./Canada Management Area.
- (1) The vessel operator must notify NMFS via VMS prior to leaving the Eastern U.S./Canada Area (including at the time of initial declaration into the Eastern U.S./Canada Area) that it is also electing to fish outside the Eastern U.S./Canada Area, as instructed by the Regional Administrator. With the exception of vessels participating in the Regular B DAS Program and fishing under a Regular B DAS and

vessels on a sector trip that are not fishing under a NE multispecies DAS for the purposes of complying with the restrictions of other fisheries, once a vessel elects to fish outside of the Eastern U.S./Canada Area, Category A DAS shall accrue from the time the vessel crosses the VMS Demarcation Line at the start of its fishing trip until the time the vessel crosses the VMS Demarcation Line on its return to port, in accordance with § 648.10(e)(5)(iii).

(2) Unless otherwise exempted pursuant to this part, the vessel must comply with the reporting requirements of the U.S./Canada Management Area specified in § 648.85(a)(3)(v) for the duration of the trip.

(3) [Reserved]

(4) If a common pool vessel fishing under a NE multispecies DAS possesses yellowtail flounder in excess of the trip limits for CC/GOM yellowtail flounder or SNE/MA yellowtail flounder, as specified in § 648.86(g), the vessel may not fish in either the CC/GOM or SNE/MA yellowtail flounder stock area during that trip (i.e., may not fish outside of the U.S./Canada Management Area).

(B) A common pool vessel fishing under a NE multispecies DAS in the Western U.S./Canada Area may fish inside and outside the Western U.S./Canada Area on the same trip, provided it complies with the more restrictive regulations applicable to the area fished for the entire trip (e.g., the possession restrictions specified in paragraph (a)(3)(iv)(C)(4) of this section), and the reporting requirements specified in § 648.85(a)(3)(v). A vessel on a sector trip in the Western U.S./Canada Area may fish inside and outside the Western U.S./Canada Area on the same trip, provided it complies with the more restrictive reporting requirements specified in § 648.85(a)(3)(v), unless otherwise exempted pursuant to this part.

(C) For the purposes of selecting vessels for observer deployment, a vessel fishing in either of the U.S./Canada Management Areas specified in paragraph (a)(1) of this section must provide notice to NMFS of the vessel name; contact name for coordination of observer deployment; telephone number for contact; and the date, time, and port of departure, at least 48 hr prior to the beginning of any trip that it declares into the U.S./Canada Management Area as required under this paragraph (a)(3)(ii).

(iii) **Gear requirements.** A NE multispecies vessel fishing with trawl gear in the Eastern U.S./Canada Area defined in paragraph (a)(1)(ii) of this section, unless otherwise provided in paragraphs (b)(6) and (8) of this section, must fish with a Ruhle trawl, as described in paragraph (b)(6)(iv)(J)(7) of this section, or a haddock separator trawl, or a flounder trawl net, as described in paragraphs (a)(3)(iii)(A) and (B) of this section (all three nets may be onboard the fishing vessel simultaneously). Unless otherwise restricted by § 648.80(n), gear other than the Ruhle trawl, haddock separator trawl, or the flounder trawl net, or gear authorized under paragraphs (b)(6) and (8) of this section, may be on board the vessel during a trip to the Eastern U.S./Canada Area, provided the gear is stowed and not available for immediate use as defined in § 648.2. The description of the haddock separator trawl and the flounder trawl net, and the description of the Ruhle trawl may be further specified by the Regional Administrator through publication of such specifications in the FEDERAL REGISTER, in a manner consistent with the Administrative Procedure Act.

- (A) **Haddock Separator Trawl.** A haddock separator trawl is defined as a groundfish trawl modified to a vertically-oriented trouser trawl configuration, with two extensions arranged one over the other, where a codend shall be attached only to the upper extension, and the bottom extension shall be left open and have no codend attached. A horizontal large-mesh separating panel constructed with a minimum of 6.0-inch (15.2-cm) diamond mesh must be installed between the selvages joining the upper and lower panels, as described in paragraphs (a)(3)(iii)(A) and (B) of this section, extending forward from the front of the trouser junction to the aft edge of the first belly behind the fishing circle. The horizontal large-mesh separating panel must be constructed with mesh of a contrasting color to the upper and bottom extensions of the net that it separates.
- (1) **Two-seam bottom trawl nets.** For two seam nets, the separator panel will be constructed such that the width of the forward edge of the panel is 80-85 percent of the width of the after edge of the first belly of the net where the panel is attached. For example, if the belly is 200 meshes wide (from selvedge to selvedge), the separator panel must be no wider than 160-170 meshes wide.
- (2) **Four-seam bottom trawl nets.** For four seam nets, the separator panel will be constructed such that the width of the forward edge of the panel is 90-95 percent of the width of the after edge of the first belly of the net where the panel is attached. For example, if the belly is 200 meshes wide (from selvedge to selvedge), the separator panel must be no wider than 180-190 meshes wide. The separator panel will be attached to both of the side panels of the net along the midpoint of the side panels. For example, if the side panel is 100 meshes tall, the separator panel must be attached at the 50th mesh.
- (B) **Flounder Trawl Net.** A flounder trawl net is defined as bottom trawl gear meeting one of the following two net descriptions:
- (1) A two-seam, low-rise net constructed with mesh size in compliance with § 648.80(a)(4), where the maximum footrope length is not greater than 105 ft (32.0 m) and the headrope is at least 30 percent longer than the footrope. The footrope and headrope lengths shall be measured from the forward wing end.
- (2) A two-seam, low-rise net constructed with mesh size in compliance with § 648.80(a)(4), with the exception that the top panel of the net contains a section of mesh at least 10 ft (3.05 m) long and stretching from selvedge to selvedge, composed of at least 12-in (30.5-cm) mesh that is inserted no farther than 4.5 meshes behind the headrope.
- (iv) **Harvest controls.** Unless otherwise specified in this paragraph (a)(3)(iv), any NE multispecies vessel fishing in the U.S./Canada Management Areas is subject to the following restrictions. For common pool vessels, the trip limits specified in this paragraph (a)(3)(iv) are in addition to any other possession or landing limits applicable to vessels not fishing in the U.S./Canada Management Areas. A sector vessel is subject to the trip limits specified in § 648.87(b)(1)(ix).
- (A) **Cod landing limit restrictions.** Notwithstanding other applicable possession and landing restrictions under this part, a common pool vessel fishing in the Eastern U.S./Canada Area described in paragraph (a)(1)(ii) of this section may not land more than 500 lb (226.8 kg)

of cod per DAS, or any part of a DAS, up to 5,000 lb (2,268 kg) per trip. A vessel fishing in the Eastern U.S./Canada Area may be further restricted by participation in other Special Management Programs, as required under this section.

- (1) **Initial cod landing limit.** Unless modified pursuant to paragraph (a)(3)(iv)(D) of this section, notwithstanding other applicable possession and landing restrictions under this part, a common pool vessel fishing in the Eastern U.S./Canada Area described in paragraph (a)(1)(ii) of this section may not land more than 500 lb (226.8 kg) of cod per DAS, or any part of a DAS, up to 5,000 lb (2,268 kg) per trip. A vessel fishing in the Eastern U.S./Canada Area may be further restricted by participation in other Special Management Programs, as required under this section.
- (2) **Possession restriction when 100 percent of TAC is harvested.** When the Regional Administrator projects that 100 percent of the TAC allocation for cod specified in paragraph (a)(2) of this section will be harvested, NMFS shall, in a manner consistent with the Administrative Procedure Act, close the Eastern U.S./Canada Area to all limited access NE multispecies DAS and sector vessels subject to that particular TAC allocation, as specified in paragraph (a)(3)(iv)(E) of this section, by prohibiting such vessels and all other vessels not issued a limited access NE multispecies permit from entering or being in this area and from harvesting, possessing, or landing cod in or from the Eastern U.S./Canada Area during the closure period.

(B) **Haddock landing limit –**

- (1) **Initial haddock landing limit.** The initial haddock landing limit for common pool vessels is specified in § 648.86(a), unless adjusted pursuant to paragraphs (a)(3)(iv)(B)(2) and (3) of this section.
- (2) **Implementation of haddock landing limit for Eastern U.S./Canada Area.** When the Regional Administrator projects that 70 percent of the haddock TAC allocation specified for common pool vessels, as described in paragraph (a)(2) of this section, will be harvested, NMFS shall implement, in a manner consistent with the Administrative Procedure Act, a haddock trip limit for common pool vessels fishing in the Eastern U.S./Canada Area of 1,500 lb (680.4 kg) per day, and 15,000 lb (6,804.1 kg) per trip.
- (3) **Possession restriction when 100 percent of TAC is harvested.** When the Regional Administrator projects that 100 percent of the TAC allocation for haddock distributed to either common pool vessels or a particular sector, as specified in paragraph (a)(2) of this section, will be harvested, NMFS shall, in a manner consistent with the Administrative Procedure Act, close the Eastern U.S./Canada Area to all limited access NE multispecies vessels subject to that particular TAC allocation, as specified in paragraph (a)(3)(iv)(E) of this section, and prohibit such vessels and all other vessels not issued a limited access NE multispecies permit from harvesting, possessing, or landing haddock in or from the Eastern U.S./Canada Area.

(C) **Yellowtail flounder landing limit –**

- (1) **Initial yellowtail flounder landing limit.** Unless further restricted under paragraphs (a)(3)(iv)(C)(2) or (D) of this section (gear performance incentives), or modified pursuant to paragraph (a)(3)(iv)(D) of this section, there is no initial limit to the amount of yellowtail flounder that could be landed for each fishing year.

- (2) ***Regional Administrator authority to adjust the yellowtail flounder landing limit mid-season.*** If, based upon available information, the Regional Administrator projects that the yellowtail flounder catch may exceed the yellowtail flounder TAC for a fishing year, the Regional Administrator may implement, adjust, or remove the yellowtail flounder landing limit at any time during that fishing year in order to prevent yellowtail flounder catch from exceeding the TAC, or to facilitate harvesting the TAC, in a manner consistent with the Administrative Procedure Act. If, based upon available information, the Regional Administrator projects that the yellowtail flounder catch is less than 90 percent of the TAC, the Regional Administrator may adjust or remove the yellowtail flounder landing limit at any time during the fishing year in order to facilitate the harvest of the TAC, in a manner consistent with the Administrative Procedure Act. The Regional Administrator may specify yellowtail flounder trip limits that apply to the entire U.S./Canada Management Area or to only the Western or Eastern Area.
- (3) ***Possession restriction when 100 percent of TAC is harvested.*** When the Regional Administrator projects that 100 percent of the TAC allocation for yellowtail flounder distributed to either common pool vessels or a particular sector, as specified in paragraph (a)(2) of this section, will be harvested, NMFS shall, in a manner consistent with the Administrative Procedure Act, close the Eastern U.S./Canada Area to all limited access NE multispecies vessels subject to that particular TAC allocation, as specified in paragraph (a)(3)(iv)(E) of this section, and prohibit such vessels and all other vessels not issued a limited access NE multispecies permit from harvesting, possessing, or landing yellowtail flounder from the U.S./Canada Management Area.
- (4) ***Yellowtail flounder landing limit for vessels fishing both inside and outside the Western U.S./Canada Area on the same trip.*** A vessel fishing both inside and outside of the Western U.S./Canada Area on the same trip, as allowed under paragraph (a)(3)(ii)(B) of this section, is subject to the most restrictive landing limits that apply to any of the areas fished, for the entire trip.
- (D) ***Other restrictions or inseason adjustments.*** In addition to the possession restrictions specified in paragraph (a)(3)(iv) of this section, the Regional Administrator, in a manner consistent with the Administrative Procedure Act, may modify the gear requirements, modify or close access to the U.S./Canada Management Areas, or modify the total number of trips into the U.S./Canada Management Area, to prevent over-harvesting or to facilitate achieving the TAC specified in paragraph (a)(2) of this section. Such adjustments may be made at any time during the fishing year, or prior to the start of the fishing year. If necessary to give priority to using Category A DAS versus using Category B DAS, the Regional Administrator may implement different management measures for vessels using Category A DAS than for vessels using Category B DAS. If the Regional Administrator, under this authority, requires use of a particular gear type in order to reduce catches of stocks of concern, unless further restricted elsewhere in this part, the following gear performance incentives will apply: Possession of flounders (all species combined), monkfish, and skates is limited to 500 lb (226.8 kg) (whole weight) each (*i.e.*, no more than 500 lb (226.8 kg) of all flounders, no more than 500 lb (226.8 kg) of monkfish, and no more than 500 lb (226.8 kg) of skates), and possession of lobsters is prohibited.

(E) **Closure of Eastern U.S./Canada Area.** Based upon available information, when the Regional Administrator projects that any individual TAC allocation for NE multispecies common pool or sectors specified in paragraph (a)(2)(iii) of this section will be caught, NMFS shall close, in a manner consistent with the Administrative Procedure Act, the Eastern U.S./Canada Area to all vessels subject to that particular TAC allocation, unless otherwise allowed under this paragraph (a)(3)(iv)(E). For example, if the Eastern GB cod TAC specified for common pool vessels is projected to be caught, NMFS shall close the Eastern U.S./Canada Area to all common pool vessels operating under a NE multispecies DAS. Should the Eastern U.S./Canada Area close as described in this paragraph (a)(3)(iv)(E), common pool vessels fishing under a DAS may continue to fish in a SAP within the Eastern U.S./Canada Area, provided that the TAC for the target stock identified for that particular SAP (i.e., haddock for the Eastern U.S./Canada Haddock SAP or haddock or yellowtail flounder for the CA II Yellowtail Flounder/Haddock SAP) has not been fully harvested. A vessel fishing on a sector trip may only fish in a SAP if that vessel's sector has ACE available for all stocks caught in that SAP. For example, should the GB cod TAC allocation specified for common pool vessels in paragraph (a)(2)(iii) of this section be attained, and the Eastern U.S./Canada Area closure implemented for common pool vessels, common pool vessels could continue to fish for yellowtail flounder within the SAP identified as the Closed Area II Yellowtail Flounder/Haddock SAP, described in paragraph (b)(3) of this section, in accordance with the requirements of that program. Upon closure of the Eastern U.S./Canada Area, vessels may transit through this area as described in paragraph (a)(1)(ii) of this section, provided that its gear is stowed and not available for immediate use as defined in § 648.2, unless otherwise restricted under this part.

(v) **Reporting.**

(A) The owner or operator of a common pool vessel must submit reports via VMS, in accordance with instructions provided by the Regional Administrator, for each day of the fishing trip when declared into either of the U.S./Canada Management Areas. The owner or operator of a sector vessel must submit daily reports via VMS, in accordance with instructions provided by the Regional Administrator, for each day of the fishing trip when declared into the Eastern U.S./Canada Area. Vessels subject to the daily reporting requirement must report daily for the entire fishing trip, regardless of what areas are fished. The reports must be submitted in 24-hr intervals for each day, beginning at 0000 hr and ending at 2359 hr, and must be submitted by 0900 hr of the following day, or as instructed by the Regional Administrator. The reports must include at least the following information:

- (1) VTR serial number or other universal ID specified by the Regional Administrator;
- (2) Date fish were caught and statistical area in which fish were caught; and
- (3) Total pounds of cod, haddock, yellowtail flounder, winter flounder, witch flounder, pollock, American plaice, redfish, Atlantic halibut, ocean pout, Atlantic wolffish, and white hake kept (in pounds, live weight) in each statistical area, as instructed by the Regional Administrator.

(B) The Regional Administrator may remove or modify the reporting requirement for sector vessels in § 648.85(a)(3)(v) in a manner consistent with the Administrative Procedure Act.

- (vi) ***Withdrawal from U.S./Canada Resource Sharing Understanding.*** At any time, the Regional Administrator, in consultation with the Council, may withdraw from the provisions of the U.S./Canada Resource Sharing Understanding described in this section, if the Understanding is determined to be inconsistent with the goals and objectives of the FMP, the Magnuson-Stevens Act, or other applicable law. If the United States withdraws from the Understanding, the implementing measures, including TACs, remain in place until changed through the framework or FMP amendment process.
- (vii) ***Transiting.*** A NE multispecies vessel that has declared into the Eastern U.S./Canada Area, as defined in paragraph (a)(1)(ii) of this section, and that is not fishing in the CA II Yellowtail Flounder/Haddock SAP described in paragraph (b)(3) of this section, may transit the CA II Yellowtail Flounder/Haddock SAP Area, as described in paragraph (b)(3)(ii) of this section, provided all fishing gear is stowed and not available for immediate use as defined in § 648.2.

(b) ***Special Access Programs.*** A SAP is a narrowly defined fishery that results in increased access to a stock that, in the absence of such authorization, would not be allowed due to broadly applied regulations. A SAP authorizes specific fisheries targeting either NE multispecies stocks or non-multispecies stocks in order to allow an increased yield of the target stock(s) without undermining the achievement of the goals of the NE Multispecies FMP. A SAP should result in a harvest level that more closely approaches OY, without compromising efforts to rebuild overfished stocks, end overfishing, minimize bycatch, or minimize impact on EFH. Development of a SAP requires a relatively high level of fishery dependent and fishery independent information in order to be consistent with this rationale.

- (1) ***SAPs harvesting NE multispecies.*** A SAP to harvest NE multispecies may be proposed by the Council and approved by NMFS through the framework process described under § 648.90.
- (2) ***SAPs harvesting stocks other than NE multispecies.*** A SAP to harvest stocks of fish other than NE multispecies (non-multispecies SAP) may be proposed by the Council and approved by NMFS through the framework process described under § 648.90.

(3) ***Closed Area II Yellowtail Flounder/Haddock SAP –***

- (i) ***Eligibility.*** Any vessel issued a valid limited access NE multispecies permit fishing under a NE multispecies DAS or on a sector trip, provided the sector to which the vessel belongs has been allocated ACE for all stocks that may be caught within the Eastern U.S./Canada Area pursuant to § 648.87(b)(1)(i), are eligible to participate in the Closed Area II Yellowtail Flounder/Haddock SAP, and may fish in the Closed Area II Yellowtail Flounder/Haddock Access Area, as described in paragraph (b)(3)(ii) of this section, for the period specified in paragraph (b)(3)(iii) of this section, provided the Eastern U.S./Canada Area, as described in paragraph (a)(1)(ii) of this section, is not closed according to the provisions specified in paragraph (a)(3)(iv)(E) of this section, or that the sector to which a vessel belongs no longer has ACE available for all stocks caught within the Eastern U.S./Canada Area pursuant to § 648.87(b)(1)(i). All eligible vessels must comply with the requirements of this section, unless otherwise specified in this paragraph (b)(3).

- (ii) **Closed Area II Yellowtail Flounder/Haddock SAP Area.** The Closed Area II Yellowtail Flounder/Haddock SAP Area is the area defined by straight lines connecting the following points in the order stated:

CLOSED AREA II YELLOWTAIL FLOUNDER/HADDOCK SAP AREA

Point	N. latitude	W. longitude
Ytail 1	41°30'	67°20'
Ytail 2	41°30'	66°34.8'
G5	41°18.6'	66°24.8'1
CII 2	41°00'	66°35.8'
CII 1	41°00'	67°20'
Ytail 1	41°30'	67°20'

(iii) **Season —**

- (A) **Season when the CA II Yellowtail Flounder/Haddock SAP is open to target yellowtail flounder.** When the CA II Yellowtail Flounder/Haddock SAP is open to target yellowtail flounder, as specified in paragraph (b)(3)(vii) of this section, eligible vessels may fish in the Closed Area II Yellowtail Flounder/Haddock SAP from July 1 through December 31.
- (B) **Season when the CA II Yellowtail Flounder/Haddock SAP is open only to target haddock.** When the CA II Yellowtail Flounder/Haddock SAP is open only to target haddock, as specified in paragraph (b)(3)(vii) of this section, eligible vessels may fish in the CA II Yellowtail Flounder/Haddock SAP from August 1 through January 31.
- (iv) **VMS requirement.** All NE multispecies vessels fishing in the U.S./Canada Management Areas described in paragraph (a)(1) of this section must have installed on board an operational VMS unit that meets the minimum performance criteria specified in §§ 648.9 and 648.10.
- (v) **Declaration.** For the purposes of selecting vessels for observer deployment, a vessel must provide notice to NMFS of the vessel name; contact name for coordination of observer deployment; telephone number for contact; date, time and port of departure; and special access program to be fished, at least 48 hr prior to the beginning of any trip that it declares into the SAP as required under this paragraph (b)(3)(v). To fish in the Closed Area II Yellowtail Flounder/Haddock SAP, a vessel must declare into this area through the VMS prior to departure from port, in accordance with instructions provided by the Regional Administrator. A vessel declared into the Closed Area II Yellowtail Flounder/Haddock SAP may also fish in the area outside the Eastern U.S./Canada Area, as defined in paragraph (a)(1)(ii) of this section, on the same trip, provided the vessel also declares into this area prior to departure from port and fishes under the most restrictive DAS counting requirements specified in § 648.10(e)(5), trip limits, and reporting requirements for the areas fished during the entire trip.

(vi) **Number of trips per vessel —**

- (A) ***Number of trips allowed when the CA II Yellowtail Flounder/Haddock SAP is open to target yellowtail flounder.*** When the CA II Yellowtail Flounder/Haddock SAP is open to target yellowtail flounder, as specified in paragraph (b)(3)(vii) of this section, eligible common pool vessels are restricted to one trip per calendar month during the season described in paragraph (b)(3)(iii) of this section.
 - (B) ***Number of trips allowed when the CA II Yellowtail Flounder/Haddock SAP is open only to target haddock.*** When the CA II Yellowtail Flounder/Haddock SAP is open only to target haddock, as specified in paragraph (b)(3)(vii) of this section, there is no limit on the number of trips that can be taken by eligible vessels during the season described in paragraph (b)(3)(iii) of this section.
- (vii) ***Opening criteria*** –
- (A) ***Opening the CA II Yellowtail Flounder/Haddock SAP to target yellowtail flounder.*** Unless otherwise authorized by the Regional Administrator, as specified in paragraph (a)(3)(iv)(D) of this section, the total number of allowed trips by common pool vessels that may be declared into the Closed Area II Yellowtail Flounder/Haddock SAP for each fishing year shall be as announced by the Regional Administrator on or about June 1, after consultation with the Council, in a manner consistent with the Administrative Procedure Act. Except as provided in paragraph (b)(3)(vii)(B) of this section, the total number of trips by all common pool vessels that may be declared into this SAP when the SAP is open to target yellowtail flounder shall not exceed 320 per year. When determining the total number of trips, the Regional Administrator shall consider the available yellowtail flounder TAC under the U.S./Canada Resource Sharing Understanding, the potential catch of GB yellowtail flounder by all vessels fishing outside of the SAP, recent discard estimates in all fisheries that catch yellowtail flounder, the expected number of SAP participants, and any other available information. If the Regional Administrator determines that the available catch, as determined by subtracting the potential catch of GB yellowtail flounder by all vessels outside of the SAP from the GB yellowtail flounder TAC allocation specified in paragraph (a)(2) of this section, is insufficient to allow for at least 150 trips with a possession limit of 15,000 lb (6,804 kg) of yellowtail flounder per trip, the Regional Administrator may choose not to authorize any trips into the SAP during a fishing year.
 - (B) ***Opening the CA II Yellowtail/Haddock SAP to only target haddock.*** If the CA II Yellowtail Flounder/Haddock SAP is not open to targeting yellowtail flounder due to an insufficient amount of yellowtail flounder TAC, or because the maximum number of trips allowed into the CA II Yellowtail Flounder/Haddock SAP to target yellowtail flounder has been achieved pursuant to paragraph (b)(3)(vii)(A) of this section, eligible vessels may target haddock in the CA II Yellowtail Flounder/Haddock Access Area, as specified in paragraph (b)(3)(ii) of this section, provided the Eastern GB haddock TAC specified in paragraph (a)(2) of this section has not been caught, the Eastern U.S./Canada Area is not closed pursuant to paragraph (a)(3)(iv)(D) of this section; and, for vessels on a sector trip, the sector to which the sector vessel belongs has ACE remaining for the stocks caught in the Eastern U.S./Canada Area.

- (viii) **Trip limits.** Vessels subject to the provisions of the common pool that are fishing in the Closed Area II Yellowtail Flounder/Haddock SAP are subject to the following trip limits, unless otherwise restricted in this part. Vessels subject to the restrictions and conditions of an approved sector operations plan fishing in the Closed Area II Yellowtail Flounder/Haddock SAP are subject to the trip limits specified in § 648.87(b)(1)(ix).
- (A) **Yellowtail flounder trip limit —**
- (1) **Trip limits when the CA II Yellowtail Flounder/Haddock SAP is open to target yellowtail flounder.** Unless otherwise authorized by the Regional Administrator as specified in paragraph (a)(3)(iv)(D) of this section, when the CA II Yellowtail Flounder/Haddock SAP is open to target yellowtail flounder, as specified in paragraph (b)(3)(vii) of this section, a vessel subject to the provisions of the common pool that is fishing in the CA II Yellowtail Flounder/Haddock SAP may fish for, possess, and land up to 10,000 lb (4,536 kg) of yellowtail flounder per trip. The Regional Administrator may adjust this limit to a maximum of 30,000 lb (13,608 kg) per trip after considering the factors listed in paragraph (b)(3)(vii) of this section for the maximum number of trips.
- (2) **Trip limits when the CA II Yellowtail Flounder/Haddock SAP is open to target haddock.** Unless otherwise specified by the Regional Administrator pursuant to paragraph (a)(3)(iv)(D) of this section, when the CA II Yellowtail Flounder/Haddock SAP is only open to target haddock, as specified in paragraph (b)(3)(vii) of this section, the trip limit for yellowtail flounder is specified in paragraph (b)(3)(viii)(C) of this section.
- (B) **Cod and haddock trip limit.** Unless otherwise restricted, a common pool vessel fishing any portion of a trip in the Closed Area II Yellowtail Flounder/Haddock SAP on a NE multispecies DAS may not fish for, possess, or land more than 1,000 lb (453.6 kg) of cod per trip, regardless of trip length. A common pool vessel fishing on a NE multispecies DAS in the Closed Area II Yellowtail Flounder/Haddock SAP is subject to the haddock requirements described in § 648.86(a), unless further restricted under paragraph (a)(3)(iv) of this section.
- (C) **Other species trip limits.** A common pool vessel fishing on a NE multispecies DAS in the CA II Yellowtail Flounder/Haddock SAP using a haddock separator trawl, a Ruhle trawl, or any other gear specified pursuant to paragraph (b)(3)(x)(B) must comply with the trip limits specified in § 648.86, unless further restricted by the trip limits specified in paragraph (e) of this section.
- (ix) **Area fished.** Eligible vessels that have declared a trip into the Closed Area II Yellowtail Flounder/Haddock SAP, and other areas as specified in paragraph (b)(3)(v) of this section, may not fish for, possess, or land fish in or from outside of the declared area during the same trip.
- (x) **Gear requirements —**
- (A) **Approved gear.** When the CA II Yellowtail Flounder/Haddock SAP is open to target yellowtail flounder, as specified in paragraph (b)(3)(vii) of this section, NE multispecies vessels fishing with trawl gear must use a haddock separator trawl or a flounder trawl net, as described in paragraph (a)(3)(iii) of this section, or the Ruhle trawl, as described in paragraph (b)(6)(iv)(J)(3) of this section (all three nets may be onboard the fishing vessel simultaneously). When this SAP is only open to target haddock, NE multispecies vessels must use a haddock separator trawl, a Ruhle trawl, or hook gear. Gear other than the haddock separator trawl, the flounder trawl, or the Ruhle trawl may be on board the vessel

during a trip to the Eastern U.S./Canada Area outside of the CA II Yellowtail Flounder/Haddock SAP, provided the gear is stowed and not available for immediate use as defined in § 648.2.

- (B) **Approval of additional gear.** The Regional Administrator may authorize additional gear for use in the CA II Yellowtail Flounder/Haddock SAP in accordance with the standards and requirements specified in paragraph (b)(6)(iv)(J)(2) of this section.
- (xi) **No-discard provision and DAS flips.** A vessel fishing in the CA II Yellowtail Flounder/Haddock SAP under a NE multispecies DAS or on a sector trip may not discard legal-sized regulated NE multispecies, unless the possession of the species is prohibited pursuant to § 648.86, or unless otherwise specified in this paragraph (b)(3)(xi). A vessel may discard Atlantic halibut exceeding the one fish per trip possession limit. If a vessel fishing in the CA II Yellowtail Flounder/Haddock SAP exceeds an applicable trip limit, the vessel must exit the SAP. If a common pool vessel operator fishing in the CA II Yellowtail Flounder/Haddock SAP under a Category B DAS harvests and brings on board more legal-sized regulated NE multispecies or Atlantic halibut than the maximum landing limits allowed per trip, as specified in paragraph (b)(3)(iv) or (viii) of this section, or in § 648.86, the vessel operator must immediately notify NMFS via VMS to initiate a DAS flip (from a Category B DAS to a Category A DAS). Once this notification has been received by NMFS, the vessel's entire trip will accrue as a Category A DAS trip. For a vessel that notifies NMFS of a DAS flip, the Category B DAS that have accrued between the time the vessel started accruing Category B DAS (i.e., either at the beginning of the trip, or at the time the vessel crossed into the Eastern U.S./Canada Area) and the time the vessel declared its DAS flip shall be accrued as Category A DAS, and not Category B DAS.
- (xii) **Minimum Category A DAS.** For vessels fishing under a Category B DAS, the number of Category B DAS that can be used on a trip cannot exceed the number of available Category A DAS the vessel has at the start of the trip.
- (xiii) **Catch distribution.** All catch of GB haddock from vessels declared into the CA II Yellowtail Flounder/Haddock SAP shall be applied against the Eastern GB haddock TAC, as specified in paragraph (a)(2) of this section, for either common pool vessels or individual approved sectors.
- (4) [Reserved]
- (5) **Incidental Catch TACs.** Unless otherwise specified in this paragraph (b)(5), Incidental Catch TACs shall be based upon the portion of the ACL for a stock specified for the common pool vessels pursuant to § 648.90(a)(4), and allocated as described in this paragraph (b)(5), for each of the following stocks: GOM cod, GB cod, GB yellowtail flounder, CC/GOM yellowtail flounder, American plaice, SNE/MA winter flounder, and witch flounder. Because GB yellowtail flounder and GB cod are transboundary stocks, the incidental catch TACs for these stocks shall be based upon the common pool portion of the ACL available to U.S. vessels. NMFS shall send letters to limited access NE multispecies permit holders notifying them of such TACs.
 - (i) **Stocks other than GB cod and GB yellowtail flounder.** With the exception of GB cod and GB yellowtail flounder, 100 percent of the Incidental Catch TACs specified in this paragraph (b)(5) shall be allocated to the Regular B DAS Program described in paragraph (b)(6) of this section.
 - (ii) **GB cod.** The Incidental Catch TAC for GB cod specified in this paragraph (b)(5) shall be subdivided as follows: 60 percent to the Regular B DAS Program described in paragraph (b)(6) of this section and 40 percent to the Eastern U.S./Canada Haddock SAP described in paragraph (b)(7) of this section.

- (iii) **GB yellowtail flounder.** The Incidental Catch TAC for GB yellowtail flounder specified in this paragraph (b)(5) shall be subdivided as follows: 50 percent to the Regular B DAS Program described in paragraph (b)(6) of this section and 50 percent to the Eastern U.S./Canada Haddock SAP described in paragraph (b)(8) of this section.

(6) **Regular B DAS Pilot Program —**

- (i) **Eligibility.** Vessels issued a valid limited access NE multispecies DAS permit and allocated Regular B DAS are eligible to participate in the Regular B DAS Program, and may elect to fish under a Regular B DAS, provided they comply with the requirements and restrictions of this paragraph (b)(6), and provided the use of Regular B DAS is not restricted according to paragraphs (b)(6)(iv)(G) or (H), or paragraph (b)(6)(vi) of this section. Vessels are required to comply with the no discarding and DAS flip requirements specified in paragraph (b)(6)(iv)(E) of this section, and the DAS balance and accrual requirements specified in paragraph (b)(6)(iv)(F) of this section. Vessels may fish under the B Regular DAS Program and in the U.S./Canada Management Area on the same trip, but may not fish under the Regular B DAS Program and in a SAP on the same trip.

- (ii) [Reserved]

- (iii) **Quarterly Incidental Catch TACs.** The Incidental Catch TACs specified in accordance with paragraph (b)(5) of this section shall be divided into quarterly catch TACs as follows: The first quarter shall receive 13 percent of the Incidental Catch TACs and the remaining quarters shall each receive 29 percent of the Incidental Catch TACs. NMFS shall send letters to all limited access NE multispecies permit holders notifying them of such TACs.

(iv) **Program requirements —**

- (A) **VMS requirement.** A NE multispecies DAS vessel fishing in the Regular B DAS Program described in paragraph (b)(6)(i) of this section must have installed on board an operational VMS unit that meets the minimum performance criteria specified in §§ 648.9 and 648.10.
- (B) **Observer notification.** For the purposes of selecting vessels for observer deployment, a vessel must provide notice to NMFS of the vessel name; contact name for coordination of observer deployment; telephone number for contact; the date, time, and port of departure; and the planned fishing area or areas (GOM, GB, or SNE/MA) at least 48 hr prior to the beginning of any trip declared into the Regular B DAS Program as required by paragraph (b)(6)(iv)(C) of this section, and in accordance with the Regional Administrator's instructions. Providing notice of the area that the vessel intends to fish does not restrict the vessel's activity on that trip to that area only (*i.e.*, the vessel operator may change his/her plans regarding planned fishing areas).
- (C) **VMS declaration.** To participate in the Regular B DAS Program under a Regular B DAS, a vessel must declare into the Program via VMS prior to departure from port, in accordance with instructions provided by the Regional Administrator. A vessel declared into the Regular B DAS Program cannot fish in an approved SAP described under this section on the same trip. Mere declaration of a Regular B DAS Program trip does not reserve a vessel's right to fish under the Program, if the vessel has not crossed the VMS demarcation line.

- (D) **Landing limits.** Unless otherwise specified in this paragraph (b)(6)(iv)(D), or restricted pursuant to § 648.86, a NE multispecies vessel fishing in the Regular B DAS Program described in this paragraph (b)(6), and fishing under a Regular B DAS, may not land more than 100 lb (45.5 kg) per DAS, or any part of a DAS, up to a maximum of 1,000 lb (454 kg) per trip, of any of the following species/stocks from the areas specified in paragraph (b)(6)(v) of this section: Cod (both GOM and GB), American plaice, witch flounder, SNE/MA winter flounder, and GB yellowtail flounder; and may not land more than 25 lb (11.3 kg) per DAS, or any part of a DAS, up to a maximum of 250 lb (113 kg) per trip of CC/GOM yellowtail flounder. In addition, trawl vessels, which are required to fish with a haddock separator trawl, as specified in paragraph (a)(3)(iii)(A) of this section, or a Ruhle trawl, as specified in paragraph (b)(6)(iv)(J) of this section, and other gear that may be required in order to reduce catches of stocks of concern as described in paragraph (b)(6)(iv)(J) of this section, are restricted to the trip limits specified in paragraph (e) of this section.
- (E) **No-discard provision and DAS flips.** A vessel fishing in the Regular B DAS Program under a Regular B DAS may not discard legal-sized regulated species, ocean pout, or monkfish. This prohibition on discarding does not apply in areas or times where the possession or landing of regulated species or ocean pout is prohibited, as specified in §§ 648.85 and 648.86. If such a vessel harvests and brings on board legal-sized regulated species or ocean pout in excess of the allowable landing limits specified in paragraph (b)(6)(iv)(D) of this section or § 648.86, the vessel operator must notify NMFS immediately via VMS to initiate a DAS flip from a B DAS to an A DAS. Once this notification has been received by NMFS, the vessel shall automatically be switched by NMFS to fishing under a Category A DAS for its entire fishing trip. Thus, any Category B DAS that accrued between the time the vessel declared into the Regular B DAS Program at the beginning of the trip (i.e., at the time the vessel crossed the demarcation line at the beginning of the trip) and the time the vessel declared its DAS flip shall be accrued as Category A DAS, and not Regular B DAS. After flipping to a Category A DAS, the vessel is subject to the applicable trip limits specified in § 648.85(a) or § 648.86 and may discard fish in excess of the applicable trip limits.
- (F) **Minimum Category A DAS and B DAS accrual.** For a vessel fishing under the Regular B DAS Program, the number of Regular B DAS that may be used on a trip cannot exceed the number of Category A DAS that the vessel has at the start of the trip. If a vessel is fishing in an area subject to differential DAS counting pursuant to § 648.82(n)(1), the number of Regular B DAS that may be used on a trip cannot exceed the number of Category A DAS that the vessel has at the start of the trip divided by the applicable differential DAS counting factor specified in § 648.82(n)(1)(ii). For example, if a vessel plans a trip under the Regular B DAS Program in the Inshore GOM Differential DAS Area during a fishing year in which the area is subject to a differential DAS counting factor of 1.2, and the vessel has 10 Category A DAS available at the start of the trip, the maximum number of Regular B DAS that the vessel may fish under the Regular B Program is 8 (10 divided by 1.2 = 8.33, but since Regular B DAS are charged in 24-hr intervals, 8 Regular B DAS is the maximum that can be used for this trip). A vessel fishing in the Regular B DAS Program for its entire trip shall accrue DAS in accordance with § 648.82(e)(1).
- (G) **Restrictions when 100 percent of the incidental catch TAC is harvested.** With the exception of white hake, when the Regional Administrator provides notification through rulemaking consistent with the Administrative Procedure Act, that 100 percent of one or more of

quarterly incidental TACs specified under paragraph (b)(6)(iii) of this section has projected to have been harvested, the use of Regular B DAS shall be prohibited in the pertinent stock area(s) as defined under paragraph (b)(6)(v) of this section for the duration of the calendar quarter. The closure of a stock area to all Regular B DAS use will occur even if the quarterly incidental catch TACs for other stocks in that stock area have not been completely harvested. When the Regional Administrator projects that 100 percent of the quarterly white hake incidental catch TAC specified under paragraph (b)(6)(iii) of this section has been harvested, vessels fishing under a Regular B DAS, or that complete a trip under a Regular B DAS, will be prohibited from retaining white hake.

- (H) **Closure of Regular B DAS Program and quarterly DAS limits.** Unless otherwise closed as a result of the harvest of an Incidental Catch TAC as described in paragraph (b)(6)(iv)(G) of this section, or as a result of an action by the Regional Administrator under paragraph (b)(6)(vi) of this section, the use of Regular B DAS shall, in a manner consistent with the Administrative Procedure Act, be prohibited when 500 Regular B DAS have been used during the first quarter of the fishing year (May-July), or when 1,000 Regular B DAS have been used during any of the remaining quarters of the fishing year, in accordance with § 648.82(e)(1).
- (I) **Reporting requirements.** The owner or operator of a NE multispecies DAS vessel must submit catch reports via VMS in accordance with instructions provided by the Regional Administrator, for each day fished when declared into the Regular B DAS Program. The reports must be submitted in 24-hr intervals for each day, beginning at 0000 hr and ending at 2359 hr. The reports must be submitted by 0900 hr of the following day. For vessels that have declared into the Regular B DAS Program in accordance with paragraph (b)(6)(iv)(C) of this section, the reports must include at least the following information: VTR serial number or other universal ID specified by the Regional Administrator; date fish were caught; statistical area fished; and the total pounds of cod, haddock, yellowtail flounder, winter flounder, witch flounder, pollock, American plaice, redfish, Atlantic halibut, and white hake kept in each statistical area (in pounds, live weight), as instructed by the Regional Administrator. Daily reporting must continue even if the vessel operator is required to flip, as described in paragraph (b)(6)(iv)(E) of this section.
- (J) **Gear requirement.**
- (1) Vessels fishing with trawl gear in the Regular B DAS Program must use the haddock separator trawl or Ruhle trawl, as described in paragraphs (a)(3)(iii)(A) and (b)(6)(iv)(J)(3) of this section, respectively, or other type of gear if approved as described in this paragraph (b)(6)(iv)(J). When the vessel is fishing under the Regular B DAS Program other gear may be on board provided it is stowed and not available for immediate use as defined in § 648.2.
- (2) **Approval of additional gear.** At the request of the Council or the Council's Executive Committee, the Regional Administrator may authorize additional gear for use in the Regular B DAS Program, through notice consistent with the Administrative Procedure Act. The proposed gear must satisfy standards specified in paragraph (b)(6)(iv)(J)(2)(i) or (ii) of this section in a completed experiment that has been reviewed according to the standards established by the Council's research policy

before the gear can be considered and approved by the Regional Administrator. Comparisons of the criteria specified in this paragraph (b)(6)(iv)(J)(2) will be made to an appropriately selected control gear.

- (i) The gear must show a statistically significant reduction in catch of at least 50 percent (by weight, on a trip-by-trip basis) of each regulated species stock of concern, unless otherwise allowed in this paragraph (b)(6)(iv)(J)(2)(i), or other non-groundfish stocks that are overfished or subject to overfishing identified by the Council. This requirement does not apply to regulated species identified by the Council as not being subject to gear performance standards; or
 - (ii) The catch of each regulated species stock of concern, unless otherwise allowed in this paragraph (b)(6)(iv)(J)(2)(ii), or other non-groundfish stocks that are overfished or subject to overfishing identified by the Council, must be less than 5 percent of the total catch of regulated groundfish (by weight, on a trip-by-trip basis). This requirement does not apply to regulated species identified by the Council as not being subject to gear performance standards.
 - (iii) The Council may recommend to the Regional Administrator an addition or modification to the gear standards specified in paragraph (b)(6)(iv)(J)(2)(i) or (ii) of this section, and the Regional Administrator may approve the Council's recommendation in a manner consistent with the Administrative Procedure Act. If the Regional Administrator does not approve an addition or modification to the gear standards as recommended by the Council, NMFS must provide a written rationale to the Council regarding its decision not to do so.
- (3) **Ruhle Trawl.** The Ruhle Trawl is a four-seam bottom groundfish trawl designed to reduce the bycatch of cod while retaining or increasing the catch of haddock, when compared to traditional groundfish trawls. A Ruhle Trawl must be constructed in accordance with the standards described and referenced in this paragraph § 648.85(b)(6)(iv)(J)(3). The mesh size of a particular section of the Ruhle Trawl is measured in accordance with § 648.80(f)(2), unless insufficient numbers of mesh exist, in which case the maximum total number of meshes in the section will be measured (between 2 and 20 meshes).
- (i) The net must be constructed with four seams (i.e., a net with a top and bottom panel and two side panels), and include at least the following net sections as depicted in Figure 1 of this part (this figure is also available from the Administrator, Northeast Region): Top jib, bottom jib, jib side panels (× 2), top wing, bottom wing, wing side panels (× 2), bunt, square, square side panels (× 2), first top belly, first bottom belly, first belly side panels (× 2), and second bottom belly.
 - (ii) The top and bottom jibs, jib side panels, top and bottom wings, and wing side panels, bunt, and first bottom belly (the first bottom belly and all portions of the net in front of the first bottom belly, with the exception of the square and the square side panels) must be at least two meshes long in the fore and aft direction. For these net sections, the stretched length of any single mesh must be at least 7.9 ft (240 cm), measured in a straight line from knot to knot.

- (iii) Mesh size in all other sections must be consistent with mesh size requirements specified under § 648.80 and meet the following minimum specifications: Each mesh in the square, square side panels, and second bottom belly must be 31.5 inches (80 cm); each mesh in the first top belly, and first belly side panels must be at least 7.9 inches (20 cm); and 6 inches (15.24 cm) or larger in sections following the first top belly and second bottom belly sections, all the way to the codend. The mesh size requirements of the top sections apply to the side panel sections.
- (iv) The trawl must have at least 15 meshes (240 cm each) at the wide end of the first bottom belly, excluding the gore.
- (v) The trawl must have a single or multiple kite panels with a total surface area of at least 19.3 sq. ft. (1.8 sq. m) on the forward end of the square to help maximize headrope height, for the purpose of capturing rising fish. A kite panel is a flat structure, usually semi-flexible, used to modify the shape of trawl and mesh openings by providing lift when a trawl is moving through the water.
- (4) **Mesh size.** An eligible vessel fishing in the Regular B DAS Program within the GB Cod Stock Area as defined in paragraph (b)(6)(v)(B) of this section pursuant to paragraph (b)(6) of this section must use trawl gear described in this paragraph (b)(6)(iv)(J) with a minimum codend mesh size of 6-inch (15.24-cm) square or diamond mesh.
- (v) **Definition of stock areas.** The species stock areas associated with the incidental catch TACs for the Regular B DAS Program are defined in paragraphs (b)(6)(v)(A) through (K) of this section. Where specified, these areas also identify stock areas applicable for trip limits specified in § 648.86 and for determining areas applicable to sector allocations of ACE pursuant to § 648.87(b). Copies of a chart depicting these areas are available from the Regional Administrator upon request.
- (A) **GOM cod stock area.** The GOM cod stock area, for the purposes of the Regular B DAS Program and determining areas applicable to sector allocations of ACE pursuant to § 648.87(b), is defined as the area bounded on the north and west by the coastline of the United States, on the east by the U.S./Canadian maritime boundary, and on the south by straight lines connecting the following points in the order stated:

GOM COD STOCK AREA

Point	N. latitude	W. longitude
GOM1	(¹)	70°00'

¹ Intersection of the north-facing coastline of Cape Cod, MA, and 70°00' W. long.

² U.S./Canada maritime boundary (southern intersection with 67°40' W. long.).

³ U.S./Canada maritime boundary (northern intersection with 67°40' W. long.).

⁴ U.S./Canada maritime boundary.

⁵ Intersection of the south-facing ME coastline and 67°00' W. long.

Point	N. latitude	W. longitude
GOM2	42°20'	70°00'
GOM3	42°20'	67°40'
GOM4	(²)	67°40'
GOM5	(³)	67°40'
GOM6	43°50'	67°40'
GOM7	43°50'	(⁴)
GOM8	(⁴)	67°00'
GOM9	(⁵)	67°00'

¹ Intersection of the north-facing coastline of Cape Cod, MA, and 70°00' W. long.

² U.S./Canada maritime boundary (southern intersection with 67°40' W. long.).

³ U.S./Canada maritime boundary (northern intersection with 67°40' W. long.).

⁴ U.S./Canada maritime boundary.

⁵ Intersection of the south-facing ME coastline and 67°00' W. long.

(B) **GB cod stock area.** The GB cod stock area, for the purposes of the Regular B DAS Program and determining areas applicable to sector allocations of ACE pursuant to § 648.87(b), is the area defined by straight lines connecting the following points in the order stated:

GB COD STOCK AREA

Point	N. latitude	W. longitude
GB1	(¹)	70°00'
GB2	42°20'	70°00'
GB3	42°20'	(²)
GB4	35°00'	(²)

¹ Intersection of the north-facing coastline of Cape Cod, MA, and 70°00' W. long.

² U.S./Canada maritime boundary.

³ Intersection of the east-facing coastline of Outer Banks, NC, and 35°00' N. lat.

Point	N. latitude	W. longitude
GB5	35°00'	(³)

¹ Intersection of the north-facing coastline of Cape Cod, MA, and 70°00' W. long.

² U.S./Canada maritime boundary.

³ Intersection of the east-facing coastline of Outer Banks, NC, and 35°00' N. lat.

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

CC/GOM YELLOWTAIL FLOUNDER STOCK AREA

Point	N. latitude	W. longitude
CCGOM 1	43°00'	(¹)
CCGOM 2	43°00'	70°00'
CCGOM 3	42°30'	70°00'
CCGOM 4	42°30'	69°30'
CCGOM 5	41°30'	69°30'
CCGOM 6	41°30'	69°00'
CCGOM 7	41°00'	69°00'
CCGOM 8	41°00'	69°30'
CCGOM 5	41°30'	69°30'
CCGOM 9	41°30'	70°00'
CCGOM 10	(²)	70°00'
CCGOM 11	42°00'	70°00'
CCGOM 12	42°00'	(³)
CCGOM 13	42°00'	(⁴)

¹ Intersection with the NH coastline.

² Intersection of the south-facing shoreline of Cape Cod, MA.

³ Intersection with the east-facing shoreline of Cape Cod, MA.

⁴ Intersection with the west-facing shoreline of Cape Cod, MA.

⁵ Intersection with the east-facing shoreline of Massachusetts.

Point	N. latitude	W. longitude
CCGOM 14	42°00'	(⁵)

¹ Intersection with the NH coastline.

² Intersection of the south-facing shoreline of Cape Cod, MA.

³ Intersection with the east-facing shoreline of Cape Cod, MA.

⁴ Intersection with the west-facing shoreline of Cape Cod, MA.

⁵ Intersection with the east-facing shoreline of Massachusetts.

(D) **American plaice stock area.** The American plaice stock area, for the purposes of the Regular B DAS Program and determining areas applicable to sector allocations of ACE pursuant to § 648.87(b), is the area defined by straight lines connecting the following points in the order stated:

AMERICAN PLAICE STOCK AREA

Point	N. latitude	W. longitude
AMP1	(¹)	67°00'
AMP2	(²)	67°00'
AMP3	43°50'	(²)
AMP4	43°50'	67°40'
AMP5	(³)	67°40'
AMP6	(⁴)	67°40'
AMP7	42°30'	67°40'
AMP8	42°30'	(²)
AMP9	35°00'	(²)

¹ Intersection of south-facing ME coastline and 67°00' W. long.

² U.S./Canada maritime boundary.

³ U.S./Canada maritime boundary (northern intersection with 67°40' N. lat.).

⁴ U.S./Canada maritime boundary (southern intersection with 67°40' N. lat.)

⁵ Intersection of east-facing coastline of Outer Banks, NC, and 35°00' N. lat.

Point	N. latitude	W. longitude
AMP10	35°00'	(⁵)

¹ Intersection of south-facing ME coastline and 67°00' W. long.

² U.S./Canada maritime boundary.

³ U.S./Canada maritime boundary (northern intersection with 67°40' N. lat.).

⁴ U.S./Canada maritime boundary (southern intersection with 67°40' N. lat.).

⁵ Intersection of east-facing coastline of Outer Banks, NC, and 35°00' N. lat.

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

SNE/MA YELLOWTAIL FLOUNDER STOCK AREA

Point	N. latitude	W. longitude
SNEMA1	40°00'	74°00'
SNEMA2	40°00'	72°00'
SNEMA3	40°30'	72°00'
SNEMA4	40°30'	69°30'
SNEMA5	41°10'	69°30'
SNEMA6	41°10'	69°50'
SNEMA7	41°20'	69°50'
SNEMA8	41°20'	(¹)
SNEMA9	(²)	70°00'
SNEMA10	41°00'	70°00'
SNEMA11	41°00'	70°30'
SNEMA12	(³)	70°30'
SNEMA13	(⁴)	72°00'
SNEMA14	(⁵)	72°00'
SNEMA15	(⁶)	73°00'
SNEMA16	40°30'	73°00'

¹ East-facing shoreline of Nantucket, MA.

² South-facing shoreline of Nantucket, MA.

³ Intersection of the south-facing shoreline of Cape Cod, MA.

⁴ South-facing shoreline of CT.

⁵ North-facing shoreline of Long Island, NY.

⁶ South-facing shoreline of Long Island, NY.

Point	N. latitude	W. longitude
SNEMA17	40°30'	74°00'
SNEMA1	40°00'	74°00'

¹ East-facing shoreline of Nantucket, MA.

² South-facing shoreline of Nantucket, MA.

³ Intersection of the south-facing shoreline of Cape Cod, MA.

⁴ South-facing shoreline of CT.

⁵ North-facing shoreline of Long Island, NY.

⁶ South-facing shoreline of Long Island, NY.

(F) **SNE/MA winter flounder stock area.** The SNE winter flounder stock area, for the purposes of the Regular B DAS Program and identifying stock areas for trip limits specified in §§ 648.86 and 648.89 is the area defined by straight lines connecting the following points in the order stated:

SNE/MA WINTER FLOUNDER STOCK AREA

Point	N. latitude	W. longitude
1	(¹)	70°00'
2	42°20'	70°00'
3	42°20'	68°50'
4	39°50'	68°50'
5	39°50'	69°00'
6	39°00'	69°00'
7	39°00'	(²)
8	35°00'	(²)
9	35°00'	(³)

¹ Intersection of the north-facing Coastline of Cape Cod, MA, and 70°00' W. long.

² U.S./Canada maritime boundary.

³ The intersection of the east-facing coastline of Outer Banks, NC, and 35°00' N. lat.

(G) **Witch flounder stock area.** The witch flounder stock area, for the purposes of the Regular B DAS Program and determining areas applicable to sector allocations of ACE pursuant to § 648.87(b), is the area bounded on the north and west by the coastline of the United States, bounded on the south and east by a line running east from the intersection of the east-facing coastline of Outer Banks, NC, at 35°00' N. lat. to the boundary of the EEZ, and running northward to the U.S.-Canada border.

- (H) **GB yellowtail flounder stock area.** The GB yellowtail flounder stock area, for the purposes of the Regular B DAS Program, identifying stock areas for trip limits specified in § 648.86, and determining areas applicable to sector allocations of ACE pursuant to § 648.87(b), is the area bounded by straight lines connecting the following points in the order stated:

GB YELLOWTAIL FLOUNDER STOCK AREA

Point	N. latitude	W. longitude
USCA1	42°20'	68°50'
USCA16	42°20'	(¹)
USCA5	39°00'	(¹)
USCA17	39°00'	69°00'
USCA18	39°50'	69°00'
USCA2	39°50'	68°50'
USCA1	42°20'	68°50'

¹ U.S./Canada maritime boundary.

- (I) **GB winter flounder stock area.** The GB winter flounder stock area, for the purposes of the Regular B DAS Program, identifying stock areas for trip limits specified in § 648.86, and determining areas applicable to sector allocations of ACE pursuant to § 648.87(b), is the area bounded by straight lines connecting the following points in the order stated:

GB WINTER FLOUNDER STOCK AREA

Point	N. latitude	W. longitude
USCA1	42°20'	68°50'
USCA16	42°20'	(¹)
USCA5	39°00'	(¹)
USCA17	39°00'	69°00'
USCA18	39°50'	69°00'
USCA2	39°50'	68°50'
USCA1	42°20'	68°50'

¹ U.S./Canada maritime boundary.

- (J) **White hake stock area.** The white hake stock area, for the purposes of the Regular B DAS Program, identifying stock areas for trip limits specified in § 648.86, and determining areas applicable to sector allocations of ACE pursuant to § 648.87(b), is the area bounded on the north and west by the coastline of the United States, bounded on the south and

east by a line running east from the intersection of the east-facing coastline of Outer Banks, NC, at 35°00' N. lat. to the boundary of the EEZ, and running northward to the U.S.-Canada border.

- (K) **Pollock stock area.** The pollock stock area, for the purposes of the Regular B DAS Program and determining areas applicable to sector allocations of ACE pursuant to § 648.87(b), is the area defined by straight lines connecting the following points in the order stated:

POLLOCK STOCK AREA

Point	N. latitude	W. longitude
P1	(¹)	67°00'
P2	(²)	67°00'
P3	43°50'	(²)
P4	43°50'	67°40'
P5	(³)	67°40'
P6	(⁴)	67°40'
P7	42°30'	67°40'
P8	42°30'	(²)
P9	35°00'	(²)
P10	35°00'	(⁵)

¹ Intersection of south-facing ME coastline and 67°00' W. long.

² U.S./Canada maritime boundary.

³ U.S./Canada maritime boundary (northern intersection with 67°40' N. lat.).

⁴ U.S./Canada maritime boundary (southern intersection with 67°40' N. lat.).

⁵ Intersection of east-facing coastline of Outer Banks, NC, and 35°00' N. lat.

- (vi) **Closure of the Regular B DAS Program.** The Regional Administrator, based upon information required under §§ 648.7, 648.9, 648.10, or 648.85, and any other relevant information may, in a manner consistent with the Administrative Procedure Act, prohibit the use of Regular B DAS for the duration of a quarter or fishing year, if it is projected that continuation of the Regular B DAS Program would undermine the achievement of the objectives of the FMP or Regular B DAS Program. Reasons for terminating the program include, but are not limited to the following: Inability to constrain catches to the Incidental Catch TACs; evidence of excessive discarding; a significant difference in flipping rates between observed and unobserved trips; or insufficient observer coverage to adequately monitor the program.

(7) **Eastern U.S./Canada Haddock SAP —**

- (i) **Eligibility.** A vessel issued a valid limited access NE multispecies permit and fishing with trawl gear as specified in paragraph (b)(8)(v)(E) of this section while operating under a NE multispecies DAS or on a sector trip, provided the sector to which the vessel belongs has been allocated ACE for all stocks caught within the Eastern U.S./Canada Area pursuant to §

648.87(b)(1)(i), is eligible to participate in the Eastern U.S./Canada Haddock SAP and may fish in the Eastern U.S./Canada Haddock SAP Area, as described in paragraph (b)(8)(ii) of this section, during the season specified in paragraph (b)(8)(iv) of this section, provided such vessel complies with the requirements of this section and provided the SAP is not closed according to the provisions specified in paragraph (b)(8)(v)(K) or (L) of this section, the Eastern U.S./Canada Area is not closed as described under paragraph (a)(3)(iv)(E) of this section, or the sector to which the vessel belongs no longer has ACE available for all stocks caught within the Eastern U.S./Canada Area pursuant to § 648.87(b)(1)(i).

- (ii) **Eastern U.S./Canada Haddock SAP Area.** The Eastern U.S./Canada Haddock SAP Area is the area defined by straight lines connecting the following points in the order stated:

EASTERN U.S./CANADA HADDOCK SAP AREA

Point	N. Lat.	W. Long.
CAII3	42° 22'	67° 20' ⁽¹⁾
SAP1	42° 20'	67° 20'
SAP2	42° 20'	67° 40'
SAP3	41° 10'	67° 40'
SAP4	41° 10'	67° 20'
SAP5	42° 10'	67° 20'
SAP6	42° 10'	67° 10'
CAII3	42° 22'	67° 20' ⁽¹⁾

⁽¹⁾ U.S./Canada maritime boundary.

- (iii) [Reserved]
- (iv) **Season.** An eligible vessel may fish in the Eastern U.S./Canada Haddock SAP from August 1 through December 31.
- (v) **Program restrictions —**
- (A) **Area and DAS use restrictions.** A common pool vessel fishing under a NE multispecies DAS in the Eastern U.S./Canada Haddock SAP may elect to fish under a Category A or Category B DAS in accordance with § 648.82(d)(2), or in multiple areas in accordance with the restrictions of this paragraph (b)(8)(v)(A). A vessel on a sector trip in the Eastern U.S./Canada Haddock SAP may elect to fish in multiple areas in accordance with the restrictions of this paragraph (b)(8)(v)(A).
- (1) If fishing under a Category B DAS, a vessel is required to comply with the no discarding and DAS flip requirements specified in paragraph (b)(8)(v)(I) of this section, and the minimum Category A DAS requirements of paragraph (b)(8)(v)(J) of this section.

- (2) A vessel that is declared into the Eastern U.S./Canada Haddock SAP described in paragraph (b)(8)(i) of this section may fish, on the same trip, in the Eastern U.S./Canada Haddock SAP Area and in the Closed Area II Yellowtail Flounder/Haddock SAP Area, as described in paragraph (b)(3)(ii) of this section, and, for common pool vessels fishing a NE multispecies DAS, while under either a Category A DAS or a Category B DAS.
- (3) A vessel may choose, on the same trip, to fish in either/both the Eastern U.S./Canada Haddock SAP Program and the Closed Area II Yellowtail Flounder/Haddock SAP Area, and in the portion of the Eastern U.S./Canada Area described in paragraph (a)(1)(ii) of this section that lies outside of these two SAPs, provided a common pool vessel fishes under a Category A DAS and all eligible vessels comply with the VMS restrictions of paragraph (b)(8)(v)(D) of this section. Such a vessel may also elect to fish outside of the Eastern U.S./Canada Area on the same trip, in accordance with the restrictions of paragraph (a)(3)(ii)(A) of this section.
- (4) A common pool vessel fishing under a NE multispecies DAS that elects to fish in multiple areas, as described in this paragraph (b)(8)(v)(A), must fish under the most restrictive DAS counting requirements specified in § 648.10(e)(5), trip limits, and reporting requirements of the areas fished for the entire trip. A vessel on a sector trip that elects to fish in multiple areas, as described in this paragraph (b)(8)(v)(A), must comply with the most restrictive reporting requirements of the areas fished for the entire trip, unless otherwise specified by the Regional Administrator in a manner consistent with the Administrative Procedure Act.
- (B) **VMS requirement.** A vessel issued a limited access NE multispecies permit fishing in the Eastern U.S./Canada Haddock SAP Program specified in paragraph (b)(8)(i) of this section must have installed on board an operational VMS unit that meets the minimum performance criteria specified in §§ 648.9 and 648.10.
- (C) **Observer notifications.** For the purpose of selecting vessels for observer deployment, a vessel must provide notice to NMFS of the vessel name; contact name for coordination of observer deployment; telephone number for contact; areas to be fished; and date, time, and port of departure at least 48 hours prior to the beginning of any trip that it declares into the Eastern U.S./Canada Haddock SAP Program specified in paragraph (b)(8)(i) of this section, as required under paragraph (b)(8)(v)(D) of this section, and in accordance with instructions provided by the Regional Administrator.
- (D) **VMS declaration.** To fish in the Eastern U.S./Canada Haddock SAP, a vessel issued a limited access NE multispecies permit must declare into the SAP via VMS and provide information on the areas within the Eastern U.S./Canada Area that it intends to fish and the type of DAS (Category A, Regular B, or Reserve B) that it intends to fish, if operating under the provisions of the common pool, prior to departure from port, in accordance with paragraph (b)(8)(v)(A) of this section and any instructions provided by the Regional Administrator.
- (E) **Gear requirement —**
 - (1) Unless otherwise specified in this paragraph (b)(8)(v)(E)(1), a vessel issued a limited access NE multispecies permit fishing in the Eastern U.S./Canada Haddock SAP must use the haddock separator trawl or the Ruhle Trawl, as described in paragraphs

(a)(3)(iii)(A) and (b)(6)(iv)(J)(3) of this section, respectively, or another type of gear, if approved as described in this paragraph (b)(8)(v)(E). A vessel on a sector trip in the Eastern U.S./Canada Haddock SAP is not restricted to only using the haddock separator trawl or the Ruhle trawl, but may use any gear authorized in paragraph (a)(3)(iii) of this section, unless otherwise restricted by a sector operations plan approved pursuant to § 648.87(c). Other gear may be on board the vessel when on a trip in the Eastern U.S./Canada Haddock SAP, provided that the gear is stowed and not available for immediate use as defined in § 648.2.

(2) **Approval of additional gear.** The Regional Administrator may authorize additional gear for use in the Eastern U.S./Canada Haddock SAP in accordance with the standards and requirements specified at § 648.85(b)(6)(iv)(J)(2).

(F) **Landing limits.** Unless otherwise restricted under this part, a vessel fishing any portion of a trip in the Eastern U.S./Canada Haddock SAP under a NE multispecies DAS may not fish for, possess, or land more than 1,000 lb (453.6 kg) of cod, per trip, regardless of trip length. A common pool vessel fishing in the Eastern U.S./Canada Haddock SAP under a NE multispecies DAS is subject to the haddock requirements described in § 648.86(a), unless further restricted under paragraph (a)(3)(iv) of this section. A common pool vessel fishing in the Eastern U.S./Canada Haddock SAP may not land more than 100 lb (45.5 kg) per DAS, or any part of a DAS, of GB yellowtail flounder, up to a maximum of 500 lb (227 kg) of all flatfish species, combined. Possession of monkfish (whole weight) and skates (whole weight) is limited to 500 lb (227 kg) each, unless otherwise restricted by § 648.94(b)(3), and possession of lobsters is prohibited. Possession limits for all other stocks are as specified in § 648.86.

(G) **Reporting requirements.** The owner or operator of a vessel declared into the Eastern U.S./Canada Haddock SAP, as described in paragraph (b)(8) of this section, must submit reports in accordance with the reporting requirements described in paragraph (a)(3)(v) of this section.

(H) **Incidental TACs.** The maximum amount of GB cod and GB yellowtail flounder, both landings and discards, that may be caught when fishing in the Eastern U.S./Canada Haddock SAP Program in a fishing year by vessels fishing under a Category B DAS, as authorized in paragraph (b)(8)(v)(A) of this section, is the amount specified in paragraphs (b)(5)(ii) and (iii) of this section. All regulated species and ocean pout caught by a vessel on a sector trip will be applied against the ACE for each stock that is specified for the sector in which the vessel participates.

(I) **No discard provision and DAS flips.** A vessel fishing in the Eastern U.S./Canada Haddock SAP Program may not discard legal-sized regulated or ocean pout unless otherwise required due to a prohibition of the possession of such species specified in this part. If a common pool vessel fishing in the Eastern U.S./Canada Haddock SAP under a Category B DAS exceeds the applicable maximum landing limit per trip specified in paragraph (b)(8)(v)(F) of this section, or in § 648.86, the vessel operator must retain the fish and immediately notify NMFS via VMS to initiate a DAS flip (from a Category B DAS to a Category A DAS). After flipping to a Category A DAS, the vessel is subject to all applicable landing limits specified in § 648.85(a) or § 648.86. If a common pool vessel fishing in this SAP while under a Category B DAS or a Category A DAS exceeds a trip limit specified in paragraph (b)(8)(v)(F) of this section or § 648.86, or other applicable trip limit, the vessel

must immediately exit the SAP area defined in paragraph (b)(8)(ii) of this section for the remainder of the trip. For a common pool vessel that notifies NMFS of a DAS flip, the Category B DAS that have accrued between the time the vessel started accruing Category B DAS and the time the vessel declared its DAS flip will be accrued as Category A DAS pursuant to § 648.82(e)(1), and not Category B DAS.

- (J) **Minimum Category A DAS.** To fish under a Category B DAS, the number of Category B DAS that can be used on a trip cannot exceed the number of available Category A DAS the vessel has at the start of the trip.
- (K) **Mandatory closure of Eastern U.S./Canada Haddock SAP.** When the Regional Administrator projects that one or more of the TAC allocations specified in paragraph (b)(8)(v)(H) of this section has been caught by vessels fishing under Category B DAS, NMFS shall prohibit the use of Category B DAS in the Eastern U.S./Canada Haddock SAP, through publication in the FEDERAL REGISTER consistent with the Administrative Procedure Act. In addition, the closure regulations described in paragraph (a)(3)(iv)(E) of this section shall apply to the Eastern U.S./Canada Haddock SAP Program.
- (L) **General closure of the Eastern U.S./Canada Haddock SAP Area.** The Regional Administrator, based upon information required under § 648.7, 648.9, 648.10, or 648.85, and any other relevant information may, through rulemaking consistent with the Administrative Procedure Act, close the Eastern U.S./Canada Haddock SAP Pilot Program for the duration of the season, if it is determined that continuation of the Eastern U.S./Canada Haddock SAP Pilot Program would undermine the achievement of the objectives of the FMP or the Eastern U.S./Canada Haddock SAP Pilot Program.

- (c) **Scallop fishery closed area access program.** Limited access scallop vessels operating under the Sea Scallop Area Access Program, as defined in § 648.59, and fishing in accordance with the regulations at § 648.60 may possess and land up to 1,000 lb (453.6 kg) of all NE multispecies combined, as provided in § 648.60(a)(5)(ii), unless otherwise restricted in this section.
- (d) **Authorized gear performance standards.** Unless otherwise restricted in this part, in areas and times when a special management program, as specified in this section, requires the use of gear authorized by that program to reduce catches of stocks of concern, participating vessels are restricted to the following trip limits: 500 lb (227 kg) of all flatfish species (American plaice, witch flounder, winter flounder, windowpane flounder, and GB yellowtail flounder), combined; 500 lb (227 kg) of monkfish (whole weight); 500 lb (227 kg) of skates (whole weight); and zero possession of lobsters, unless otherwise restricted by § 648.94(b)(3).
- (e) **Universal exemption programs for sector vessels –**
 - (1) **Redfish Exemption Program –**
 - (i) **Eligibility.** Any vessel enrolled in a NMFS approved Northeast multispecies sector and issued a limited access Northeast multispecies permit that allows the use of trawl gear consistent with paragraph (e)(1)(vii) of this section may fish in compliance with the provisions of the Redfish Exemption Program described in paragraphs (e)(1)(ii) through (viii) of this section, except those vessels enrolled in a sector whose members have been prohibited from doing so by the Regional Administrator under paragraph (e)(1)(viii)(C) of this section, or those vessels ineligible or prohibited for any other reason. Letters of authorization issued pursuant to § 648.87(c)(2) shall authorize or prohibit participation in the program by sector vessels consistent with paragraph (e)(1)(viii)(C) of this section.

- (ii) **Redfish Exemption Area.** The Redfish Exemption Area is the area defined by straight lines connecting the following points in the order stated, except between points D and E and E and F, the boundary follows the outer limits of the U.S. EEZ. (A chart depicting this area is available from the Regional Administrator upon request):

TABLE 14 TO PARAGRAPH (e)(1)(ii) INTRODUCTORY TEXT

Point	N lat.	W long.
A	43°00'	69°55'
B	43°00'	69°30'
C	43°20'	69°30'
D	43°20'	(¹)
E	42°53.24'	67°44.55'
F	42°20'	(²)
G	42°20'	67°40'
H	42°00'	67°40'
I	42°00'	69°37'
J	42°20'	69°55'
A	43°00'	69°55'

¹ U.S. EEZ longitude, approximately 67°35.07'.

² U.S. EEZ longitude, approximately 67°18.17'.

- (A) **Redfish Exemption Area Cod Closure.** No vessel may participate in the Redfish Exemption Program inside the Redfish Exemption Area Cod Closure from February 1 through March 31 of each year. The Redfish Exemption Area Cod Closure is the area defined by straight lines connecting the following points in the order stated:

TABLE 15 TO PARAGRAPH (e)(1)(ii)(A)

Point	N Lat.	W Long.
A	43°00'	69°55'
B	43°00'	69°30'
K	42°30'	69°30'
L	42°30'	69°55'

Point	N Lat.	W Long.
A	43°00'	69°55'

- (B) **Redfish Exemption Area Seasonal Closure II.** No vessel may participate in the Redfish Exemption Program inside the Redfish Exemption Area Seasonal Closure II from September 1 through December 31 of each year. The Redfish Exemption Area Seasonal Closure II is the area defined by straight lines connecting the following points in the order stated, except between points F and G the boundary follows the outer limits of the U.S. EEZ:

TABLE 16 TO PARAGRAPH (e)(1)(ii)(B)

Point	N lat.	W long.
M	42°47.17'	67°40'
F	42°20'	(¹)
G	42°20'	67°40'
M	42°47.17'	67°40'

¹ U.S. EEZ longitude, approximately 67°18.17'.

- (C) No vessel may participate in the Redfish Exemption Program in any areas that are otherwise closed to fishing for Northeast multispecies or fishing with trawl gear, including but not limited to year-round closed areas, seasonal closed areas, or habitat closures.
- (iii) **Season.** An eligible vessel as described in paragraph (e)(1)(i) of this section may participate in the Redfish Exemption Program from May 1 through April 30 of each year as authorized in the vessel's letter of authorization issued pursuant to § 648.87(c)(2), unless otherwise prohibited in the letter of authorization under paragraph (e)(1)(viii)(C) of this section.
- (iv) **Declaration.** To participate in the Redfish Exemption Program on a sector trip, an eligible vessel must declare its intent to do so through the VMS prior to leaving the dock, in accordance with instructions provided by the Regional Administrator.
- (A) **Pre-trip notification.** For the purposes of selecting vessels for observer deployment or electronic monitoring, a vessel participating in the Redfish Exemption Program must comply with all pre-trip notification requirements at § 648.11(l).
- (B) [Reserved]
- (v) **Reporting –**

(A) **Daily catch reporting.** The owner or operator of a vessel that has declared into the Redfish Exemption Program as required in paragraph (e)(1)(iv) of this section must submit catch reports via VMS, for each day of the fishing trip. Vessels subject to the daily reporting requirement must report daily for the entire fishing trip, including any portion fished outside of the Redfish Exemption Area. The reports must be submitted in 24-hr intervals for each day, beginning at 0000 hr and ending at 2359 hr, and must be submitted by 0900 hr of the following day, or as instructed by the Regional Administrator. The reports must include at least the following information:

- (1) VTR serial number or other universal ID specified by the Regional Administrator;
- (2) Date fish were caught and statistical area in which fish were caught; and
- (3) Total pounds of each regulated Northeast multispecies and ocean pout kept (in pounds, live weight) as well as the total pounds of other kept catch (in pounds, live weight) in each statistical area, as instructed by the Regional Administrator.

(B) **Redfish exemption fishing notification.** After the vessel has entered the Redfish Exemption Area, the owner or operator of a vessel must submit a redfish exemption fishing notification before switching to a smaller mesh codend allowed under the Redfish Exemption Program. This notification is provided with an additional catch report submitted via VMS, reporting all catch on board and indicating that the vessel is switching to a smaller mesh codend. This notification indicates that the vessel is now fishing under the provisions of the Redfish Exemption Program. Vessels that fail to declare into the Redfish Exemption Program as required in paragraph (e)(1)(iv) of this section may not fish under the Redfish Exemption Program even if this notification is sent. The notification must include at least the following information:

- (1) VTR serial number or other universal ID specified by the Regional Administrator;
- (2) Date fish were caught and statistical area in which fish were caught;
- (3) Total pounds of each regulated Northeast multispecies and ocean pout kept (in pounds, live weight) as well as the total pounds of other kept catch (in pounds, live weight) in each statistical area, as instructed by the Regional Administrator; and
- (4) Indication that the vessel is now switching to a smaller mesh codend.

(vi) **Area fished.**

- (A) A vessel that has declared its intent to fish under the Redfish Exemption Program consistent with paragraph (e)(1)(iv) of this section may conduct the first part of its trip outside the provisions of the Redfish Exemption Program, subject to all other Northeast multispecies regulations including codend mesh size, prior to sending a redfish exemption fishing notification as described in paragraph (e)(1)(v)(B) of this section.
- (B) Once a vessel has sent a redfish exemption fishing notification as described in paragraph (e)(1)(v)(B) of this section, the vessel is prohibited from fishing outside of the Redfish Exemption Area for the remainder of its trip.

- (vii) **Gear requirements.** Vessels may only use trawl gear when declared into and fishing in the Redfish Exemption Program. Vessels may fish in the Redfish Exemption Program with any trawl gear, including, but not limited to, otter trawl, haddock separator trawl, flounder trawl, or Ruhl trawl.
 - (A) **Minimum codend mesh size.** The minimum codend mesh size for vessels fishing in the Redfish Exemption Program is 5.5-inch square or diamond mesh. All other trawl net restrictions listed in § 648.80(a)(3)(i) and (a)(4)(i), including minimum mesh sizes for the net body and extensions, still apply.
 - (B) **Gear stowage.** Codends with mesh smaller than otherwise permitted by regulation at § 648.80(a)(3)(i) and (a)(4)(i), or § 648.87(c)(2)(ii)(D), must be stowed during transit to and from the Redfish Exemption Area, and when not in use under the Redfish Exemption Program. Any non-trawl fishing gear must be stowed for the duration of any trip for which a vessel declared its intent to fish under the Redfish Exemption Program consistent with paragraph (e)(1)(iv) of this section. Stowed gear must be not available for immediate use consistent with definitions in § 648.2
- (viii) **Catch Thresholds –**
 - (A) **Monthly Performance Thresholds.**
 - (1) Monthly Redfish Landings Threshold—Monthly redfish landings by a sector whose member vessels fish under the provisions of the Redfish Exemption Program may not be less than 50 percent of all the allocated Northeast multispecies stocks landed each month while fishing under the provisions of the Redfish Exemption Program.
 - (2) Monthly Discards Threshold—Monthly observed discards of regulated Northeast multispecies and ocean pout by a sector whose member vessels fish under the provisions of the Redfish Exemption Program may not exceed 5 percent of total observed kept catch, for those portions of trips fished each month under the provisions of the Redfish Exemption Program.
 - (B) **Annual Performance Thresholds.**
 - (1) Annual Redfish Landings Threshold—Annual fishing year redfish landings by a sector whose member vessels fish under the provisions of the Redfish Exemption Program may be no less than 55 percent of all the allocated Northeast multispecies stocks landed while fishing under the provisions of the Redfish Exemption Program.
 - (C) **Administration of thresholds.**
 - (1) For the purpose of determining a sector's monthly redfish landings threshold performance described in paragraph (e)(1)(viii)(A)(1) of this section and the annual redfish landings threshold described in paragraph (e)(1)(viii)(B)(1) of this section, landings of allocated regulated species by vessels participating in a maximized retention electronic monitoring program consistent with § 648.11(l), including landings of allocated stocks below the minimum size at § 648.83(a)(1), will be counted as landings and not discards.

- (2) For the purpose of determining a sector's monthly discards threshold performance described in paragraph (e)(1)(viii)(A)(2) of this section, a trip by a vessel participating in a maximized retention electronic monitoring program consistent with § 648.11(l) will be excluded from evaluation of the monthly discard threshold.
- (3) If a sector fails to meet the monthly redfish landings threshold or the monthly discards threshold described in paragraphs (e)(1)(viii)(A)(1) and (2) of this section for four or more months total, or three or more consecutive months, in a fishing year, the Regional Administrator shall prohibit all vessels in that sector from fishing under the provisions of the Redfish Exemption Program for the remainder of the fishing year, and place the sector and its vessels in a probationary status for one fishing year beginning the following fishing year.
- (4) If a sector fails to meet the annual redfish landings threshold described in paragraph (e)(1)(viii)(B)(1) of this section in a fishing year, the Regional Administrator shall place the sector and its vessels in a probationary status for one fishing year beginning the following fishing year.
- (5) While in probationary status as described in paragraph (e)(1)(viii)(C)(3) or (4) of this section, if the sector fails to meet the monthly redfish landings threshold or the monthly discards threshold described in paragraphs (e)(1)(viii)(A)(1) and (2) of this section for four or more months total, or three or more consecutive months, in that fishing year, the Regional Administrator shall prohibit all vessels in that sector from fishing under the provisions of the Redfish Exemption Program for the remainder of the fishing year and the following fishing year.
- (6) If a sector fails to meet the annual redfish landings threshold in paragraph (e)(1)(viii)(B)(1) of this section for any fishing year during which the sector is in a probationary status as described in paragraph (e)(1)(viii)(C)(3) or (4) of this section, the Regional Administrator shall prohibit all vessels in that sector from fishing under the provisions of the Redfish Exemption Program for the following fishing year.
- (7) The Regional Administrator may determine a sector has failed to meet required monthly or annual thresholds described in paragraphs (e)(1)(viii)(A) and (B) of this section using available information including, but not limited to, vessel declarations and notifications, vessel trip reports, dealer reports, and observer and electronic monitoring records.
- (8) The Regional Administrator shall notify a sector of a failure to meet the required monthly or annual thresholds and the sector's vessels prohibition or probation status consistent with the provisions in paragraphs (e)(1)(viii)(C)(1) through (7) of this section. The Regional Administrator shall also make administrative amendments to the approved sector operations plan and issue sector vessel letters of authorization consistent with the provisions in paragraphs (e)(1)(viii)(C)(1) through (7) of this section. These administrative amendments may be made during a fishing year or during the sector operations plan and sector contract approval process.
- (9) A sector may request in writing that the Regional Administrator review and reverse a determination made under the provisions of this section within 30 days of the date of the Regional Administrator's determination. Any such request must be based on information showing the sector complied with the required thresholds, including, but

not limited to, landing, discard, observer or electronic monitoring records. The Regional Administrator will review and maintain or reverse the determination and notify the sector of this decision in writing. Any determination resulting from a review conducted under this paragraph (e)(1)(viii)(C)(9) is final and may not be reviewed further.

- (ix) **Program review.** The Council will review the Redfish Exemption Program after the first peer-reviewed redfish stock assessment following implementation of the program. The Council will prepare a report, which may include, but is not limited to, an evaluation of threshold performance, vessel-level performance, bycatch of non-redfish stocks, and changes in catch selectivity, and will consider the goals and objectives of the Redfish Exemption Program and the FMP. The Council may decide, as needed, to conduct additional reviews following the review outlined in this section.

(2) [Reserved]

[69 FR 22975, Apr. 27, 2004]

Editorial Note: For FEDERAL REGISTER citations affecting § 648.85, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.govinfo.gov.

§ 648.86 NE Multispecies possession restrictions.

Except as provided in §§ 648.11(l) and 648.17, or elsewhere in this part, the following possession restrictions apply:

(a) **Haddock —**

- (1) **NE multispecies common pool vessels.** Haddock possession restrictions for such vessels may be implemented through Regional Administrator authority, as specified in paragraph (r) of this section.
- (2) **Scallop dredge vessels.**
 - (i) No person owning or operating a scallop dredge vessel issued a NE multispecies permit may land haddock from, or possess haddock on board, a scallop dredge vessel from January 1 through June 30.
 - (ii) No person owning or operating a scallop dredge vessel without an NE multispecies permit may possess haddock in, or harvested from, the EEZ from January 1 through June 30.
 - (iii) Unless otherwise authorized by the Regional Administrator as specified in paragraph (f) of this section, scallop dredge vessels or persons owning or operating a scallop dredge vessel that is fishing under a scallop DAS allocated under § 648.53 may land or possess on board up to 300 lb (136.1 kg) of haddock, except as specified in § 648.88(c), provided that the vessel has at least one standard tote on board. This restriction does not apply to vessels also issued limited access NE multispecies permits that are fishing under a multispecies DAS. Haddock 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.

(3)

(i) **Incidental catch allowance for some Atlantic herring vessels.** A vessel issued a Category A or B Herring Permit fishing on a declared herring trip, regardless of gear or area fished, or a vessel issued a Category C, D, or E Herring Permit and fishing with midwater trawl gear pursuant to § 648.80(d), may only possess and land haddock, in accordance with requirements specified in § 648.80(d) and (e).

(ii) **Haddock incidental catch cap.**

(A)

(1) **Haddock incidental catch cap.** When the Regional Administrator has determined that the incidental catch allowance for a given haddock stock, as specified in § 648.90(a)(4)(iii)(D), has been caught, no vessel issued an Atlantic herring permit and fishing with midwater trawl gear in the applicable stock area, *i.e.*, the Herring GOM Haddock Accountability Measure (AM) Area or Herring GB Haddock AM Area, as defined in paragraphs (a)(3)(ii)(A)(2) and (3) of this section, may fish for, possess, or land herring in excess of 2,000 lb (907.2 kg) per trip in or from that area, unless all herring possessed and landed by the vessel were caught outside the applicable AM Area and the vessel's gear is stowed and not available for immediate use as defined in § 648.2 while transiting the AM Area. Upon this determination, the haddock possession limit is reduced to 0 lb (0 kg) for a vessel issued a Federal Atlantic herring permit and fishing with midwater trawl gear or for a vessel issued a Category A or B Herring Permit fishing on a declared herring trip, regardless of area fished or gear used, in the applicable AM Area, unless the vessel also possesses a NE multispecies permit and is operating on a declared (consistent with § 648.10(g)) NE multispecies trip. In making this determination, the Regional Administrator shall use haddock catches observed by observers or monitors by herring vessel trips using midwater trawl gear in Management Areas 1A, 1B, and/or 3, as defined in § 648.200(f)(1) and (3), expanded to an estimate of total haddock catch for all such trips in a given haddock stock area.

(2) **Herring GOM Haddock Accountability Measure Area.** The Herring GOM Haddock AM Area is defined by the 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):

HERRING GOM HADDOCK ACCOUNTABILITY MEASURE AREA

Point	N. latitude	W. longitude
HGA1	(¹)	69°20'
HGA	43°40'	69°20'

¹ The intersection of the Maine coastline and 69°20' W. long.

² The intersection of the U.S./Canada maritime boundary and 43°20' N. lat.

³ The intersection of the U.S./Canada maritime boundary and 42°20' N. lat.

⁴ The intersection of the north-facing shoreline of Cape Cod, MA, and 70°00' W. long.

Point	N. latitude	W. longitude
HGA3	43°40'	69°00'
HGA4	43°20'	69°00'
HGA5	43°20'	(²)
HGA6	42°20'	(³)
HGA7	42°20'	70°00'
HGA8	(⁴)	70°00'

¹ The intersection of the Maine coastline and 69°20' W. long.

² The intersection of the U.S./Canada maritime boundary and 43°20' N. lat.

³ The intersection of the U.S./Canada maritime boundary and 42°20' N. lat.

⁴ The intersection of the north-facing shoreline of Cape Cod, MA, and 70°00' W. long.

(3) **The Herring GB Haddock Accountability Measure Area.** The Herring GB Haddock AM Area is defined by the 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):

HERRING GB HADDOCK ACCOUNTABILITY MEASURE AREA

Point	N. Latitude	W. Longitude
1	42° 20'	70° 00'
2	42° 20'	(¹)
3	40° 30'	(¹)
4	40° 30'	66° 40'
5	39° 50'	66° 40'
6	39° 50'	68° 50'
7	(²)	68° 50'
8	41° 00'	(³)
9	41° 00'	69° 30'
10	41° 10'	69° 30'

¹ The intersection of the U.S./Canada maritime boundary.

² The intersection of the boundary of Closed Area I and 68° 50' W. long.

³ The intersection of the boundary of Closed Area I and 41° 00' N. lat.

⁴ The intersection of the east-facing shoreline of Nantucket, MA, and 41° 20' N. lat.

⁵ The intersection of the north-facing shoreline of Nantucket, MA, and 70° 00' W. long.

⁶ The intersection of the south-facing shoreline of Cape Cod, MA, and 70° 00' W. long.

⁷ The intersection of the north-facing shoreline of Cape Cod, MA, and 70° 00' W. long.

Point	N. Latitude	W. Longitude
11	41° 10'	69° 50'
12	41° 20'	69° 50'
13	41° 20'	(⁴)
14	(⁵)	70° 00'
15	(⁶)	70° 00'
16	(⁷)	70° 00'

¹ The intersection of the U.S./Canada maritime boundary.

² The intersection of the boundary of Closed Area I and 68° 50' W. long.

³ The intersection of the boundary of Closed Area I and 41° 00' N. lat.

⁴ The intersection of the east-facing shoreline of Nantucket, MA, and 41° 20' N. lat.

⁵ The intersection of the north-facing shoreline of Nantucket, MA, and 70° 00' W. long.

⁶ The intersection of the south-facing shoreline of Cape Cod, MA, and 70° 00' W. long.

⁷ The intersection of the north-facing shoreline of Cape Cod, MA, and 70° 00' W. long.

(4) The haddock incidental catch caps specified are for the NE multispecies fishing year (May 1-April 30), which differs from the herring fishing year (January 1-December 31). If the haddock incidental catch allowance is attained by the herring midwater trawl fishery for the GOM or GB, as specified in § 648.90(a)(4)(iii)(D), the 2,000-lb (907.2-kg) limit on herring possession in the applicable AM Area, as described in paragraph (a)(3)(ii)(A)(2) or (3) of this section, shall be in effect until the end of the NE multispecies fishing year. For example, the 2011 haddock incidental catch cap is specified for the period May 1, 2011-April 30, 2012, and the 2012 haddock catch cap would be specified for the period May 1, 2012-April 30, 2013. If the catch of haddock by herring midwater trawl vessels reached the 2011 incidental catch cap at any time prior to the end of the NE multispecies fishing year (April 30, 2012), the 2,000-lb (907.2-kg) limit on possession of herring in the applicable AM Area would extend through April 30, 2012. Beginning May 1, 2012, the 2012 catch cap would go into effect.

(B) [Reserved]

(b) **Cod** –

(1) **GOM cod landing limit.** Except as provided in paragraph (b)(4) of this section, or unless otherwise restricted under § 648.85, a vessel fishing under a NE multispecies DAS permit, including a vessel issued a monkfish limited access permit and fishing under the monkfish Category C or D permit provisions, may land up to 800 lb (362.9 kg) of cod for each DAS, or part of a DAS, up to 4,000 lb (1,818.2 kg) per trip. 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.

(2) **GB cod landing and maximum possession limits.** Unless otherwise restricted under § 648.85, a vessel fishing under a NE multispecies DAS permit, including a vessel issued a monkfish limited access permit and fishing under the monkfish Category C or D permit provisions, may land up to 2,000 lb (907.2 kg) of cod per DAS, or part of a DAS, up to 20,000 lb (9,072 kg) provided it complies with the

requirements specified in paragraph (b)(4) of this section and this paragraph (b)(2). 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.

(3) [Reserved]

(4) **Exemption.** A common pool vessel fishing under a NE multispecies DAS is exempt from the landing limit described in paragraph (b)(1) of this section when fishing south of the GOM Regulated Mesh Area, defined in § 648.80(a)(1), provided that it complies with the requirement of this paragraph (b)(4).

(i) **Declaration.** With the exception of a vessel declared into the U.S./Canada Management Area, as described in § 648.85(a)(3)(ii), a common pool vessel that fishes or intends to fish under a NE multispecies DAS south of the line described in paragraph (b)(4) of this section, under the cod trip limits described in paragraph (b)(2) of this section, must, prior to leaving port, declare its intention to do so through the VMS, in accordance with instructions to be provided by the Regional Administrator. In lieu of a VMS declaration, the Regional Administrator may authorize such vessels to obtain a letter of authorization. If a letter of authorization is required, such vessel may not fish north of the exemption area for a minimum of 7 consecutive days (when fishing under the multispecies DAS program), and must carry the letter of authorization on board.

(ii) A common pool vessel exempt from the GOM cod landing limit pursuant to paragraph (b)(4)(i) of this section may not fish north of the line specified in paragraph (b)(4) of this section for the duration of the trip, but may transit the GOM Regulated Mesh Area, provided that its gear is stowed and not available for immediate use as defined in § 648.2. A vessel fishing north and south of the line on the same trip is subject to the most restrictive applicable cod trip limit.

(c) **Atlantic halibut.** A vessel issued a NE multispecies permit under § 648.4(a)(1) may land or possess on board no more than one Atlantic halibut per trip, provided the vessel complies with other applicable provisions of this part, unless otherwise specified in § 648.90(a)(5)(i)(F).

(d) **Small-mesh multispecies.**

(1) Vessels issued a valid Federal NE multispecies permit specified under § 648.4(a)(1) are subject to the following possession limits for small-mesh multispecies, which are based on the mesh size used by, or on board vessels fishing for, in possession of, or landing small-mesh multispecies.

(i) **Vessels possessing on board or using nets of mesh size smaller than 3 in (7.62 cm).** Owners or operators of a vessel may possess and land not more than 15,000 lb (6,804 kg) of combined silver hake and offshore hake, if either of the following conditions apply:

(A) The mesh size of any net or any part of a net used by or on board the vessel is smaller than 3 inches (7.62 cm), as applied to the part of the net specified in paragraph (d)(1)(iv) of this section, as measured in accordance with § 648.80(f); or

(B) The mesh size of any net or part of a net on board the vessel not incorporated into a fully constructed net is smaller than 3 inches (7.62 cm), as measured by methods specified in § 648.80(f). "Incorporated into a fully constructed net" means that any mesh smaller than 3 inches (7.62 cm) that is incorporated into a fully constructed net may occur only in the

part of the net not subject to the mesh size restrictions specified in paragraph (d)(1)(iv) of this section, and the net into which the mesh is incorporated must be available for immediate use.

(ii) [Reserved]

(iii) ***Vessels possessing on board or using nets of mesh size equal to or greater than 3 in (7.62 cm).***

An owner or operator of a vessel that is not subject to the possession limits specified in paragraphs (d)(1)(i) and (ii) of this section may possess and land not more than 30,000 lb (13,608 kg) of combined silver hake and offshore hake when fishing in the GOM or GB Exemption Areas, as described in § 648.80(a), and not more than 40,000 lb (18,144 kg) of combined silver hake and offshore hake when fishing in the SNE or MA Exemption Areas, as described in § 648.80(b)(10) and (c)(5), respectively, if both of the following conditions apply:

- (A) The mesh size of any net or any part of a net used by or on board the vessel is equal to or greater than 3 inches (7.62 cm), as applied to the part of the net specified in paragraph (d)(1)(iv) of this section, as measured by methods specified in § 648.80(f); and
- (B) The mesh size of any net or part of a net on board the vessel not incorporated into a fully constructed net is equal to or greater than 3 inches (7.62 cm), as measured by methods specified in § 648.80(f). "Incorporated into a fully constructed net" means that any mesh smaller than 3 inches (7.62 cm) that is incorporated into a fully constructed net may occur only in the part of the net not subject to the mesh size restrictions as specified in paragraph (d)(1)(iv) of this section, and the net into which the mesh is incorporated must be available for immediate use.

(iv) ***Application of mesh size.*** Counting from the terminus of the net, the mesh size restrictions specified in paragraphs (d)(1)(i) through (iii) of this section are only applicable to the first 100 meshes (200 bars in the case of square mesh) for vessels greater than 60 ft (18.3 m) in length, and to the first 50 meshes (100 bars in the case of square mesh) for vessels 60 ft (18.3 m) or less in length. Notwithstanding any other provision of this section, the restrictions and conditions pertaining to mesh size do not apply to nets or pieces of net smaller than 3 ft by 3 ft (0.9 m by 0.9 m), (9 sq ft (0.81 sq m)).

(v) ***Possession of southern red hake while under a rebuilding plan.*** When the southern red hake stock, defined as statistical areas 525-526, 533-534, 541-543, 537-539, 562, 611-616, 621-623, 625-628, 631-634, 635-638, is under a rebuilding plan, the year-round possession limit for southern red hake shall be the following:

- (A) ***Vessels possessing on board or using nets of mesh size smaller than 5.5 in (13.97 cm).***
Owners and operators of vessels may possess and land no more than 600 lb (272 kg) of southern red hake per trip when:
 - (1) Using trawls with diamond or square mesh size less than 5.5 in (13.97 cm); and/or
 - (2) A vessel is in possession of a net with mesh size smaller than 5.5 in (13.97 cm), unless it is properly stowed and not available for immediate use in accordance with § 648.2 and not used on that trip.
- (B) ***Vessels using nets of mesh size greater than or equal to 5.5 in (13.97 cm), using small-mesh selective trawls, or gear other than trawl.*** Owners and operators may possess and land no more than 1,000 lb (453 kg) of southern red hake per trip when:

- (1) Using trawls with diamond or square mesh size 5.5 in (13.97 cm) or larger;
 - (2) Using small-mesh selective gear, including raised-footrope trawls as defined in § 648.80(a)(9)(ii), large-mesh belly panel trawls as defined in § 648.84(f), rope separator trawls as defined in § 648.84(e), and other selective gears deemed by the Regional Administrator to adequately reduce the catch of red hake; or
 - (3) When using gears other than trawls.
- (vi) **Possession of northern red hake.** Vessels participating in the small-mesh multispecies fishery and fishing on the northern red hake stock, defined as statistical areas 464-465, 467, 511-515, 521-522, and 561, may possess and land no more than 3,000 lb 91,361 kg) of red hake when fishing in the GOM/GB Exemption area, as described in § 648.80(a)(17).
- (2) **Possession limit for vessels participating in the northern shrimp fishery.** Owners and operators of vessels participating in the Small-Mesh Northern Shrimp Fishery Exemption Area, as described in § 648.80(a)(3), with a vessel issued a valid Federal NE multispecies permit specified under § 648.4(a)(1), may possess and land silver hake and offshore hake, combined, up to an amount equal to the weight of shrimp on board, not to exceed 3,500 lb (1,588 kg). 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.
- (3) **Possession restriction for vessels electing to transfer small-mesh NE multispecies at sea.** Owners and operators of vessels issued a valid Federal NE multispecies permit and issued a letter of authorization to transfer small-mesh NE multispecies at sea according to the provisions specified in § 648.13(b) are subject to a combined silver hake and offshore hake possession limit that is 500 lb (226.8 kg) less than the possession limit the vessel otherwise receives. This deduction shall be noted on the transferring vessel's letter of authorization from the Regional Administrator.
- (4) **Accountability Measure In-season adjustment of small-mesh multispecies possession limits.** If the Regional Administrator projects that an in-season adjustment TAL trigger level for any small-mesh multispecies stock, as specified in § 648.90(b)(5)(iii), has been reached or exceeded, the Regional Administrator shall reduce the possession limit of that stock to the incidental level for that stock, as specified in this paragraph (d)(4), for the remainder of the fishing year through notice consistent with the Administrative Procedure Act, unless such a reduction in the possession limit would be expected to prevent the TAL from being reached.
- (i) **Red hake.** If a possession limit reduction is needed for a stock area, the incidental possession limit for red hake in that stock area will be 400 lb (181.44 kg) for the remainder of the fishing year.
 - (ii) **Silver hake and offshore hake.** If a possession limit reduction is needed for a stock area, the incidental possession limit for silver hake and offshore hake, combined, in that stock area will be 2,000 lb (907 kg) for the remainder of the fishing year.
- (e) **White hake.** Unless otherwise restricted under this part, a common pool vessel fishing under a NE multispecies DAS, a limited access Handgear A permit, an open access Handgear B permit, or a monkfish limited access permit and fishing under the monkfish Category C or D permit provisions is not restricted in the amount of white hake the vessel may land per trip during fishing years 2010 and 2011. Starting in fishing year 2012, unless otherwise restricted under this part, a common pool vessel fishing under a NE

multispecies DAS, a limited access Handgear A permit, an open access Handgear B permit, or a monkfish limited access permit and fishing under the monkfish Category C or D permit provisions may land up to 500 lb (226.8 kg) of white hake per DAS, or any part of a DAS, up to 2,000 lb (907.2 kg) per trip.

- (f) **Calculation of weight of fillets or parts of fish.** The possession limits described under this part are based on the weight of whole, whole-gutted, or gilled fish. For purposes of determining compliance with the possession limits specified in paragraphs (a), (b), or (c) of this section, the weight of fillets and parts of fish, other than whole-gutted or gilled fish, as allowed under § 648.83(a) and (b), will be multiplied by 3.
- (g) **Yellowtail flounder —**
 - (1) **CC/GOM and SNE/MA yellowtail flounder landing limit.** Unless otherwise restricted under this part, a common pool vessel fishing under a NE multispecies DAS, a limited access Handgear A permit, an open access Handgear B permit, or a monkfish limited access permit and fishing under the monkfish Category C or D permit provisions, and fishing exclusively outside of the U.S./Canada Management Area, as defined in § 648.85(a)(1), may land or possess on board up to 250 lb (113.6 kg) of yellowtail flounder per DAS, or any part of a DAS, up to a maximum possession limit of 1,500 lb (680.4 kg) per trip. A vessel fishing outside and inside of the U.S./Canada Management Area on the same trip is subject to the more restrictive yellowtail flounder trip limit (i.e., that specified by this paragraph (g) or § 648.85(a)(3)(iv)(C)).
 - (2) **GB yellowtail flounder landing limit.** Unless otherwise restricted under this part, a common pool vessel fishing under a NE multispecies DAS, a limited access Handgear A permit, an open access Handgear B permit, or a monkfish limited access permit and fishing under the monkfish Category C or D permit provisions, and fishing in the U.S./Canada Management Area defined in § 648.85(a)(1) is subject to the GB yellowtail flounder limit described in paragraph § 648.85(a)(3)(iv)(c).
- (h) **Other possession restrictions.** Vessels are subject to any other applicable possession limit restrictions of this part.
- (i) **Offloading requirement for vessels possessing species regulated by a daily possession limit.** A vessel that has ended a trip as specified in § 648.10(e)(2)(iii) or (h)(5) that possesses on board species regulated by a daily possession limit (i.e., pounds per DAS), as specified at § 648.85 or § 648.86, must offload species in excess of the daily landing limit prior to leaving port on a subsequent trip. A vessel may retain on board up to one day's worth of such species prior to the start of a subsequent trip. Other species regulated by an overall trip limit may be retained on board for a subsequent trip. For example, a vessel that possesses cod and winter flounder harvested from Georges Bank is subject to a daily possession limit for cod of 1,000 lb (453 kg)/DAS and an overall trip limit of 5,000 lb (2,267 kg)/trip for winter flounder. In this example, the vessel would be required to offload any cod harvested in excess of 1,000 lb (453 kg) (i.e., the vessel may retain up to 1,000 lb (453 kg) of Georges Bank cod, but must offload any additional cod), but may retain on board winter flounder up to the maximum trip limit prior to leaving port and crossing the VMS Demarcation Line to begin a subsequent trip.
- (j) **GB winter flounder.** Unless otherwise restricted under this part, a common pool vessel fishing under a NE multispecies DAS, a limited access Handgear A permit, an open access Handgear B permit, or a monkfish limited access permit and fishing under the monkfish Category C or D permit provisions and fishing in the U.S./Canada Management Area defined in § 648.85(a)(1) is not restricted in the amount of GB winter flounder the vessel may land per trip.
- (k) **Other regulated NE multispecies possession restrictions for some Atlantic herring vessels.** A vessel issued a Category A or B Herring Permit on a declared herring trip, regardless of area fished or gear used, or a vessel issued a Category C, D, or E Herring Permit and fishing with midwater trawl gear pursuant to §

648.80(d), may possess and land haddock, and up to 100 lb (45 kg), combined, of other regulated NE multispecies, other than haddock, in accordance with the requirements in § 648.80(d) and (e). Such fish may not be sold for human consumption.

(l) ***Ocean pout, windowpane flounder, and Atlantic wolffish.*** A vessel issued a limited access NE multispecies permit, an open access NE multispecies Handgear B permit, or a limited access monkfish permit and fishing under the monkfish Category C or D permit provisions may not fish for, possess, or land ocean pout, windowpane flounder, or Atlantic wolffish.

(m) ***Additional possession restrictions —***

(1) ***Daily landing restriction.*** A vessel issued a limited access NE multispecies permit, an open access NE multispecies Handgear B permit, or a limited access monkfish permit and fishing under the monkfish Category C or D permit provisions may only land regulated species or ocean pout once in any 24-hr period, based upon the time the vessel lands following the end of the previous trip. For example, if a vessel lands 1,600 lb (725.7 kg) of GOM cod at 6 p.m. on Tuesday, that vessel cannot land any more regulated species or ocean pout until at least 6 p.m. on the following Wednesday.

(2) ***Possession limits for vessels fishing in multiple areas.*** If a vessel fishes in more than one stock area on the same trip, as defined in § 648.85(b)(6)(v) or § 648.87(b)(1)(ii), the most restrictive trip limit for a species applies for the entire trip.

(n) ***Pollock.*** Unless otherwise restricted under this part, a vessel issued a NE multispecies DAS permit, a limited access Handgear A permit, an open access Handgear B permit, or a monkfish limited access permit and fishing under the monkfish Category C or D permit provisions, may not possess or land more than 1,000 lb (450 kg) of pollock for each DAS or part of a DAS fished, up to 10,000 lb (4,500 kg) per trip.

(o) ***Regional Administrator authority to implement possession limits —***

(1) ***Possession restrictions to prevent exceeding common pool sub-ACLs.*** If the Regional Administrator projects that the catch of any NE multispecies stock allocated to common pool vessels pursuant to § 648.90(a)(4) will exceed the pertinent sub-ACL, NMFS may implement or adjust, at any time prior to or during the fishing year, in a manner consistent with the Administrative Procedure Act, a per-DAS possession limit and/or a maximum trip limit in order to prevent exceeding the common pool sub-ACL in that fishing year.

(2) ***Possession restrictions to facilitate harvest of sub-ACLs allocated to the common pool.*** If the Regional Administrator projects that the sub-ACL of any stock allocated to the common pool pursuant to § 648.90(a)(4) will not be caught during the fishing year, the Regional Administrator may remove or adjust, in a manner consistent with the Administrative Procedure Act, a per-DAS possession limit and/or a maximum trip limit in order to facilitate harvest and enable the total catch to approach, but not exceed, the pertinent sub-ACL allocated to the common pool for that fishing year.

[69 FR 22978, Apr. 27, 2004]

Editorial Note: For FEDERAL REGISTER citations affecting § 648.86, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.govinfo.gov.

§ 648.87 Sector allocation.

(a) ***Procedure for approving/implementing a sector allocation proposal.***

- (1) Any person may submit a sector allocation proposal for a group of limited access NE multispecies vessels to NMFS. The sector allocation proposal must be submitted to the Council and NMFS in writing by the deadline for submitting an operations plan and preliminary sector contract that is specified in paragraph (b)(2) of this section. The proposal must include a cover letter requesting the formation of the new sector, a complete sector operations plan and preliminary sector contract, prepared as described in paragraphs (b)(2) and (b)(3) of this section, and appropriate analysis that assesses the impact of the proposed sector, in compliance with the National Environmental Policy Act.
- (2) Upon receipt of a proposal to form a new sector allocation, and following the deadline for each sector to submit an operations plan, as described in paragraph (b)(2) of this section, NMFS will notify the Council in writing of its intent to consider a new sector allocation for approval. The Council will review the proposal(s) and associated NEPA analyses at a Groundfish Committee and Council meeting, and provide its recommendation on the proposed sector allocation to NMFS in writing. NMFS will make final determinations regarding the approval of the new sectors based on review of the proposed operations plans, associated NEPA analyses, and the Council's recommendations, and in a manner consistent with the Administrative Procedure Act. NMFS will only approve a new sector that has received the Council's endorsement.
- (3) **Eligibility.** Any valid limited access NE multispecies permit, including a Handgear A permit and those permits held in confirmation of permit history pursuant to § 648.4(a)(1)(i)(J) as of May 1, 2008, is eligible to join a NE multispecies sector, provided the permit complies with the restrictions specified in this section. Any valid limited access Category A or B monkfish permit may be eligible to join a NE multispecies sector, as described in this section, pursuant to any measures adopted by a future revision to the Monkfish FMP by both the New England and Mid-Atlantic Fishery Management Councils. Vessels that do not join a sector remain subject to the NE multispecies regulations for common pool vessels.
- (4) **Minimum size.** To be authorized to operate as a sector under this section, a sector must be comprised of at least three NE multispecies permits issued to at least three different persons, none of whom have any common ownership interests in the permits, vessels, or businesses associated with the permits issued the other two or more persons in that sector. Having an ownership interest in a permit includes, but is not limited to, persons or entities who are shareholders, officers, or partners in a corporation owning a permit; who are partners (general or limited) to a permit owner; who, in any way, partly own a permit; or who derive any financial benefit, or exercises any control over, another permit. As long as at least three persons issued a NE multispecies permit meet these requirements, permit owners may have common ownership interests in other permits, vessels, or businesses associated with such permits.

(b) **General requirements applicable to all approved Sectors.**

- (1) All sectors approved under the provisions of paragraph (a) of this section must submit the documents specified in paragraphs (a)(1) and (b)(2) and (3) of this section, comply with the conditions and restrictions of this paragraph (b)(1), and comply with the groundfish sector monitoring program in § 648.11(l).
 - (i) **TAC allocation** —

- (A) **Allocated stocks.** Each sector shall be allocated a TAC in the form of an ACE for each NE multispecies stock, with the exception of Atlantic halibut, ocean pout, windowpane flounder (both the northern and southern stocks), and Atlantic wolffish based upon the cumulative PSCs of vessels/permits participating in each sector during a particular fishing year, as described in paragraph (b)(1)(i)(E) of this section.
- (B) **Eastern GB stocks –**
- (1) **Allocation.** Each sector allocated ACE for stocks managed under the terms of the U.S./Canada Resource Sharing Understanding in the Eastern U.S./Canada Area, as specified in § 648.85(a), shall be allocated a specific portion of the ACE for such stocks that can only be harvested from the Eastern U.S./Canada Area, as specified in § 648.85(a)(1). The ACE specified for the Eastern U.S./Canada Area portions of these stocks shall be proportional to the sector's allocation of the overall ACL available to all vessels issued a limited access NE multispecies permit for these stocks pursuant to § 648.90(a)(4). For example, if a sector is allocated 10 percent of the GB cod ACL available to all vessels issued a limited access NE multispecies permit, that sector would also be allocated and may harvest 10 percent of that ACE from the Eastern U.S./Canada Area. In this example, if the overall GB cod ACL available to all vessels issued a limited access NE multispecies permit is 1,000 mt, of which 100 mt is specified to the Eastern U.S./Canada Area, the sector would be allocated 100 mt of GB cod, of which no more than 10 mt could be harvested from the Eastern U.S./Canada Area and no more than 90 mt could be harvested from the rest of the GB cod stock area.
- (2) **Re-allocation of haddock or cod ACE.** A sector may re-allocate all, or a portion, of its haddock or cod ACE specified to the Eastern U.S./Canada Area, pursuant to paragraph (b)(1)(i)(B)(1) of this section, to the Western U.S./Canada Area at any time during the fishing year, and up to 2 weeks into the following fishing year (*i.e.*, through May 14), unless otherwise instructed by NMFS, to cover any overages during the previous fishing year. Re-allocation of any ACE only becomes effective upon approval by NMFS, as specified in paragraphs (b)(1)(i)(B)(2)(i) through (iii) of this section. Re-allocation of haddock or cod ACE may only be made within a sector, and not between sectors. For example, if 100 mt of a sector's GB haddock ACE is specified to the Eastern U.S./Canada Area, the sector could re-allocate up to 100 mt of that ACE to the Western U.S./Canada Area.
- (i) **Application to re-allocate ACE.** GB haddock or GB cod ACE specified to the Eastern U.S./Canada Area may be re-allocated to the Western U.S./Canada Area through written request to the Regional Administrator. This request must include the name of the sector, the amount of ACE to be re-allocated, and the fishing year in which the ACE re-allocation applies, as instructed by the Regional Administrator.
- (ii) **Approval of request to re-allocate ACE.** NMFS shall approve or disapprove a request to re-allocate GB haddock or GB cod ACE provided the sector, and its participating vessels, are in compliance with the reporting requirements specified in this part. The Regional Administrator shall inform the sector in writing, within 2 weeks of the receipt of the sector's request, whether the request to re-allocate ACE has been approved.

- (iii) **Duration of ACE re-allocation.** GB haddock or GB cod ACE that has been re-allocated to the Western U.S./Canada Area pursuant to this paragraph (b)(1)(i)(B)(2) is only valid for the fishing year in which the re-allocation is approved, with the exception of any requests that are submitted up to 2 weeks into the subsequent fishing year to address any potential ACE overages from the previous fishing year, as provided in paragraph (b)(1)(iii) of this section, unless otherwise instructed by NMFS.

(C) **Carryover.**

- (1) With the exception of GB yellowtail flounder, a sector may carryover an amount of ACE equal to 10 percent of its original ACE for each stock that is unused at the end of one fishing year into the following fishing year, provided that the total unused sector ACE plus the overall ACL for the following fishing year does not exceed the ABC for the fishing year in which the carryover may be harvested. If this total exceeds the ABC, NMFS shall adjust the maximum amount of unused ACE that a sector may carryover (down from 10 percent) to an amount equal to the ABC of the following fishing year. Any adjustments made would be applied to each sector based on its total unused ACE and proportional to the cumulative PSCs of vessels/permits participating in the sector for the particular fishing year, as described in paragraph (b)(1)(i)(E) of this section.
 - (i) **Eastern GB Stocks Carryover.** Any unused ACE allocated for Eastern GB stocks in accordance with paragraph (b)(1)(i)(B) of this section shall contribute to the carryover allowance for each stock, as specified in this paragraph (b)(1)(i)(C)(1), but shall not increase individual sector's allocation of Eastern GB stocks during the following year.
 - (ii) This carryover ACE remains effective during the subsequent fishing year even if vessels that contributed to the sector allocation during the previous fishing year are no longer participating in the same sector for the subsequent fishing year.
- (2) **Carryover accounting.**
 - (i) If the overall ACL for a particular stock is exceeded, the allowed carryover of a particular stock harvested by a sector, minus the NMFS-specified *de minimis* amount, shall be counted against the sector's ACE for purposes of determining an overage subject to the AM in paragraph (b)(1)(iii) of this section.
 - (ii) **De Minimis Carryover Amount.** The *de minimis* carryover amount is one percent of the overall sector sub-ACL for the fishing year in which the carryover would be harvested. NMFS may change this *de minimis* carryover amount for any fishing year through notice consistent with the Administrative Procedure Act. The overall *de minimis* carryover amount would be applied to each sector proportional to the cumulative PSCs of vessels/permits participating in the sector for the particular fishing year, as described in paragraph (b)(1)(i)(E) of this section.

- (D) **Maximum ACE allocation.** There is no maximum amount of ACE that can be allocated to a particular sector during each fishing year.

(E) **Potential sector contribution (PSC).** For the purposes of allocating a share of the available ACL for each NE multispecies stock to approved sectors pursuant to § 648.90(a)(4), the landings history of all limited access NE multispecies permits shall be evaluated to determine each permit's share of the overall landings for each NE multispecies stock as specified in paragraphs (b)(1)(i)(E)(1) and (2) of this section. When calculating an individual permit's share of the overall landings for a particular regulated species or ocean pout stock, landed weight shall be converted to live weight to maintain consistency with the way ACLs are calculated pursuant to § 648.90(a)(4) and the way ACEs are allocated to sectors pursuant to this paragraph (b)(1)(i). This calculation shall be performed on July 1 of each year, unless another date is specified by the Regional Administrator, to redistribute the landings history associated with permits that have been voluntarily relinquished or otherwise canceled among all remaining valid limited access NE multispecies permits as of that date during the following fishing year. The PSC calculated pursuant to this paragraph (b)(1)(i)(E) shall remain with the permit indefinitely, but may be permanently reduced or eliminated due to a permit sanction or other enforcement action.

(1) **Calculation of PSC for all NE multispecies stocks except GB cod.** Unless otherwise specified in paragraph (b)(1)(i)(E)(2) of this section, for each valid limited access NE multispecies permit, including limited access NE multispecies Handgear A permits, landings recorded in the NMFS dealer database of each stock of NE multispecies determined by NMFS to be the landings history associated with that permit while subject to the NE multispecies regulations based on whether the vessel fishing under that permit was issued a limited access NE multispecies permit or subsequently qualified for a limited access NE multispecies permit pursuant to § 648.4(a)(1)(i), including regulated species or ocean pout caught under a NE multispecies DAS when participating in the skate or monkfish fisheries, but excluding, for example, landings by scallop vessels operating under a scallop DAS, shall be summed for fishing years 1996 through 2006. This sum shall then be divided by the total landings of each NE multispecies stock during the same period by all permits eligible to join sectors as of May 1, 2008. The resulting figure shall then be multiplied by a factor of 1/PSC of remaining permits as of June 1 of each year, unless another date is specified by the Regional Administrator, to calculate the PSC for each individual valid limited access NE multispecies permit for each regulated species or ocean pout stock allocated to sectors in the NE multispecies fishery for the following fishing year pursuant to this paragraph (b)(1)(i)(E)(1).

(2) **Calculation of GB cod PSC.** The GB cod PSC shall be calculated as specified in this paragraph (b)(1)(i)(E)(2) and shall remain with the permit indefinitely regardless whether the vessel participates in either the GB Cod Hook Gear Sector or the GB Cod Fixed Gear Sector, as defined in § 648.87(d)(1) or (2), joins a new sector, or fishes pursuant to the provisions of the common pool.

(i) **GB cod PSC for permits committed to participate in the GB Cod Hook Gear Sector or GB Cod Fixed Gear Sector.** For each owner of a valid NE multispecies permit, or CPH, that committed to participate in either the GB Cod Hook Gear Sector or the GB Cod Fixed Gear Sector as evidenced by a valid authorized signature executed on or before March 1, 2008, on a preliminary roster for either of these sectors, the PSC for GB cod shall be equal to the sum of dealer landings of GB cod for fishing years 1996 through 2001, divided by the total landings of GB cod

by permits eligible to join sectors as of May 1, 2008, during that period. The PSC for all other regulated species or ocean pout stocks specified for these permits shall be calculated pursuant to paragraph (b)(1)(i)(E)(1) of this section. The PSC calculated pursuant to this paragraph (b)(1)(i)(E)(2)(i) shall then be multiplied by a factor of 1/PSC of remaining permits as of June 1 of each year, unless another date is specified by the Regional Administrator, to calculate the GB cod PSC for each permit for the following fishing year.

(ii) **GB cod PSC for all other permits.** For each owner of a valid NE multispecies permit or CPH that has not committed to participate in either the GB Cod Hook Gear Sector or GB Cod Fixed Gear Sector, as specified in paragraph (b)(1)(i)(E)(2)(i) of this section, the GB cod PSC for each such permit or CPH shall be based upon the GB cod PSC available after accounting for the GB cod PSC calculated pursuant to paragraph (b)(1)(i)(E)(2)(i) of this section. To determine the GB cod PSC for each of these permits, the sum of the individual permit's landings of GB cod available in the NMFS dealer database for fishing years 1996 through 2006 shall be divided by the total landings of GB cod during that period by the total landings of GB cod by permits eligible to join sectors as of May 1, 2008, during that period, after subtracting the total landings of GB cod by permits that committed to participate in either the GB Cod Hook Sector or GB Cod Fixed Gear Sector as of March 1, 2008. This individual share shall then be multiplied by the available GB cod PSC calculated by subtracting the GB cod PSC allocated pursuant to paragraph (b)(1)(i)(E)(2)(i) of this section from one. The PSC calculated pursuant to this paragraph (b)(1)(i)(E)(2)(ii) shall then be multiplied by a factor of 1/PSC of remaining permits as of July 1 of each year, unless another date is specified by the Regional Administrator, to calculate the GB cod PSC for each permit.

(ii) **Areas that can be fished.** Vessels in a sector may only fish in a particular stock area, as specified in paragraphs (b)(1)(ii)(A) through (F) of this section, and § 648.85(b)(6)(v), or the Eastern U.S./Canada Area, as specified in § 648.85(a)(1), if the sector has been allocated, or acquires, pursuant to paragraph (b)(1)(viii) of this section, ACE for all stocks allocated to sectors pursuant to paragraph (b)(1)(i)(A) of this section that are caught in that stock area. A sector must project when its ACE for each stock will be exceeded and must ensure that all vessels in the sector cease fishing operations prior to exceeding it. Once a sector has harvested its ACE for a stock, all vessels in that sector must cease fishing operations in that stock area on a sector trip unless and until it acquires additional ACE from another sector pursuant to paragraph (b)(1)(viii) of this section, or as otherwise specified in an approved operations plan pursuant to paragraph (b)(2)(xiv) of this section. For the purposes of this paragraph (b)(1)(ii), an ACE overage means catch of regulated species or ocean pout by vessels participating in a particular sector that exceeds the ACE allocated to that sector, as of the date received or purchased by the dealer, whichever occurs first, after considering all ACE transfer requests ultimately approved by NMFS during the current fishing year, pursuant to paragraph (b)(1)(viii) of this section, unless otherwise specified pursuant to § 648.90(a)(5).

(A) **CC/GOM Yellowtail Flounder Stock Area.** The CC/GOM Yellowtail Flounder Stock Area, for the purposes of identifying stock areas for trip limits specified in § 648.86, and for determining areas applicable to sector allocations of CC/GOM yellowtail flounder ACE

pursuant to paragraph (b) of this section, is defined as the area bounded on the north and west by the coastline of the United States, on the east by the U.S./Canadian maritime boundary, and on the south by rhumb lines connecting the following points in the order stated:

CC/GOM YELLOWTAIL FLOUNDER STOCK AREA

Point	N. Latitude	W. Longitude
1	(¹)	70° 00'
2	(²)	70° 00'
3	41° 20'	(³)
4	41° 20'	69° 50'
5	41° 10'	69° 50'
6	41° 10'	69° 30'
7	41° 00'	69° 30'
8	41° 00'	68° 50'
9	42° 20'	68° 50'

¹ Intersection of south-facing coastline of Cape Cod, MA, and 70° 00' W. long.

² Intersection of north-facing coastline of Nantucket, MA, and 70° 00' W. long.

³ Intersection of east-facing coastline of Nantucket, MA, and 41° 20' N. lat.

⁴ U.S./Canada maritime boundary.

Point	N. Latitude	W. Longitude
10	42° 20'	(⁴)

¹ Intersection of south-facing coastline of Cape Cod, MA, and 70° 00' W. long.

² Intersection of north-facing coastline of Nantucket, MA, and 70° 00' W. long.

³ Intersection of east-facing coastline of Nantucket, MA, and 41° 20' N. lat.

⁴ U.S./Canada maritime boundary.

(B) **SNE/MA Yellowtail Flounder Stock Area.** The SNE/MA Yellowtail Flounder Stock Area, for the purposes of identifying stock areas for trip limits specified in § 648.86, and for determining areas applicable to sector allocations of SNE/MA yellowtail flounder ACE pursuant to paragraph (b) of this section, is the area bounded by rhumb lines connecting the following points in the order stated:

SNE/MA YELLOWTAIL FLOUNDER STOCK AREA

Point	N. Latitude	W. Longitude
1	35° 00'	(¹)
2	35° 00'	(²)
3	39° 00'	(²)
4	39° 00'	69° 00'
5	39° 50'	69° 00'
7	39° 50'	68° 50'
8	41° 00'	68° 50'
9	41° 00'	69° 30'
10	41° 10'	69° 30'
11	41° 10'	69° 50'
12	41° 20'	69° 50'
13	41° 20'	(³)
14	(⁴)	70° 00'

¹ Intersection of east-facing coastline of Outer Banks, NC, and 35° 00' N. lat.

² U.S./Canada maritime boundary.

³ Intersection of east-facing coastline of Nantucket, MA, and 41° 20' N. lat.

⁴ Intersection of north-facing coastline of Nantucket, MA, and 70° 00' W. long.

⁵ Intersection of south-facing coastline of Cape Cod, MA, and 70° 00' W. long.

Point	N. Latitude	W. Longitude
15	(⁵)	70° 00'

¹ Intersection of east-facing coastline of Outer Banks, NC, and 35° 00' N. lat.

² U.S./Canada maritime boundary.

³ Intersection of east-facing coastline of Nantucket, MA, and 41° 20' N. lat.

⁴ Intersection of north-facing coastline of Nantucket, MA, and 70° 00' W. long.

⁵ Intersection of south-facing coastline of Cape Cod, MA, and 70° 00' W. long.

(C) **GOM Haddock Stock Area.** The GOM Haddock Stock Area, for the purposes of identifying stock areas for trip limits specified in § 648.86 and for determining areas applicable to sector allocations of GOM haddock ACE pursuant to paragraph (b) of this section, is defined as the area bounded on the north and west by the coastline of the United States, on the east by the U.S./Canadian maritime boundary, and on the south by straight lines connecting the following points in the order stated:

GOM HADDOCK STOCK AREA

Point	N. Latitude	W. Longitude
1	(¹)	70° 00'
2	42° 20'	70° 00'
3	42° 20'	67° 40'
4	(²)	67° 40'
5	(³)	67° 40'
6	43° 50'	67° 40'
7	43° 50'	(⁴)
8	(⁴)	67° 00'
9	(⁵)	67° 00'

¹ Intersection of the north-facing coastline of Cape Cod, MA, and 70° 00' W. long.

² U.S./Canada maritime boundary southern intersection with 67° 40' W. long.).

³ U.S./Canada maritime boundary northern intersection with 67° 40' W. long.).

⁴ U.S./Canada maritime boundary.

⁵ Intersection of the south-facing ME coastline and 67° 00' W. long.

(D) **GB Haddock Stock Area.** The GB Haddock Stock Area, for the purposes of identifying stock areas for trip limits specified in § 648.86 and for determining areas applicable to sector allocations of GB haddock ACE pursuant to paragraph (b) of this section, is defined as the area bounded on the west by the coastline of the United States, on the south by a line

running from the east-facing coastline of North Carolina at 35° N. lat. until its intersection with the EEZ, on the east by the U.S./Canadian maritime boundary, and bounded on the north by straight lines connecting the following points in the order stated:

GB HADDOCK STOCK AREA

Point	N. Latitude	W. Longitude
1	(¹)	70° 00'
2	42° 20'	70° 00'
3	42° 20'	(²)

¹ Intersection of the north-facing coastline of Cape Cod, MA, and 70° 00' W. long.

² U.S./Canada maritime boundary.

(E) **Redfish Stock Area.** The Redfish Stock Area, for the purposes of identifying stock areas for trip limits specified in § 648.86 and for determining areas applicable to sector allocations of redfish ACE pursuant to paragraph (b) of this section, is defined as the area bounded on the north and west by the coastline of the United States, on the east by the U.S./Canadian maritime boundary, and bounded on the south by a rhumb line running from the east-facing coastline of North Carolina at 35° N. lat. until its intersection with the EEZ.

(F) **GOM Winter Flounder Stock Area.** The GOM Winter Flounder Stock Area, for the purposes of identifying stock areas for trip limits specified in § 648.86 and for determining areas applicable to sector allocations of GOM winter flounder ACE pursuant to paragraph (b) of this section, is the area bounded by straight lines connecting the following points in the order stated:

GOM WINTER FLOUNDER STOCK AREA

Point	N. Latitude	W. Longitude
1	(¹)	70°00'
2	42°20'	70°00'
3	42°20'	67°40'
4	(²)	67°40'

(¹) Intersection of the north-facing coastline of Cape Cod, MA, and 70°00' W. long.

(²) U.S./Canada maritime boundary (southern intersection with 67°40' N. lat.)

(³) U.S./Canada maritime boundary (northern intersection with 67°40' N. lat.)

(⁴) U.S./Canada maritime boundary.

(⁵) Intersection of the south-facing ME coastline and 67°00' W. long.

Point	N. Latitude	W. Longitude
5	(³)	67°40'
6	43°50'	67°40'
7	43°50'	4
8	(⁴)	67°00'
9	(⁵)	67°00'

(¹) Intersection of the north-facing coastline of Cape Cod, MA, and 70°00' W. long.

(²) U.S./Canada maritime boundary (southern intersection with 67°40' N. lat.)

(³) U.S./Canada maritime boundary (northern intersection with 67°40' N. lat.)

(⁴) U.S./Canada maritime boundary.

(⁵) Intersection of the south-facing ME coastline and 67°00' W. long.

(iii) **Sector AMs.** At the end of the fishing year, NMFS shall evaluate sector catch using VTR, VMS, IVR, and any other available information to determine whether a sector has exceeded any of its ACE allocations based upon the cumulative catch by participating permits/vessels, as identified in the final operations plan approved by the Regional Administrator pursuant to paragraph (c) of this section, and each sector's share of any overage of the overall ACL for any stock caused by excessive catch by other sub-components of the fishery pursuant to § 648.90(a)(5), if necessary. Should an ACE allocated to a sector be exceeded in a given fishing year, the sector's ACE shall be reduced by the overage on a pound-for-pound basis during the following fishing year, and the sector, each vessel, vessel operator and/or vessel owner participating in the sector may be charged, as a result of said overages, jointly and severally for civil penalties and permit sanctions pursuant to 15 CFR part 904. If an ACE allocated to a sector is not exceeded in a given fishing year pursuant to this paragraph (b)(1)(iii), the sector's ACE allocation shall not be reduced for the following fishing year as a result of an overage of an ACE by non-compliant sectors or an overage of sub-ACLs allocated to common pool vessels, but may be reduced if the excessive catch of a particular stock by other sub-components of the fishery causes the overall ACL of a particular stock to be exceeded pursuant to § 648.90(a)(5). If declining stock conditions result in a need to reduce fishing mortality, and all sectors and common pool vessels have operated within their ACE or sub-ACL limits, a sector's percentage share shall not be changed, but the amount this share represents may be reduced due to reduced overall ACL for a particular stock. If stock conditions improve, and certain sectors stay within their ACE while other sectors or the common pool exceed their respective ACEs or sub-ACLs, the sectors that stay within their ACEs shall receive a temporary increase in ACE equal to the amount that other sectors or the common pool exceeded their ACE or sub-ACL, divided among such sectors proportional to each sector's share of the ACL available to vessels issued a limited access NE multispecies permit.

(A) **Overage penalty if there is sufficient ACE to cover the overage.** If a sector exceeds an ACE allocated to it during the previous fishing year, but has sufficient ACE to address the overage pursuant to this paragraph (b)(1)(iii) based upon the cumulative PSCs of participating vessels during the fishing year following the overage, no overage penalty shall be applied to any member permit/vessel that leaves that sector to fish under the

provisions of the common pool or in another sector in the year following the overage. Any impacts to departing member permits/vessels may be specified and addressed by the sector operations plan and associated sector contract.

(B) ***Overage penalty if there is insufficient ACE to cover an overage.*** If a sector exceeds an ACE allocated to it during the previous fishing year, but disbands in the year following the overage, or otherwise does not have sufficient ACE to address the overage pursuant to this paragraph (b)(1)(iii) based upon the cumulative PSCs of permits/vessels participating in that sector during the fishing year following the overage, individual permit holders that participated in the sector during the fishing year in which the overage occurred shall be responsible for reducing their DAS/PSC to account for that overage in the subsequent fishing year, as follows:

- (1) ***PSC reduction.*** If a sector disbands following an overage, and the owner of an individual permit joins another sector for the subsequent fishing year, that permit's contribution toward the ACE for the stock for which the overage occurred to the other sector in the subsequent fishing year shall be reduced by an amount equal to the overage divided by the number of permits/vessels participating in the sector during the fishing year in which the overage occurred. For example, if a sector comprised of 10 permits/vessels exceeded its GB cod ACE by 10,000 lb (4,536 kg) during the previous fishing year, but later disbands, each permit/vessel that was in that sector, but then joins another sector during the following fishing year shall have its contribution of GB cod to another sector temporarily reduced by 1,000 lb (453.6 kg) during the subsequent fishing year for the purposes of calculating the available GB cod ACE allocated to another sector during that fishing year.
- (2) ***DAS reduction.*** If a sector disbands following an overage and the owner of an individual permit elects to fish under the provisions of the common pool during the subsequent fishing year, that permit/vessel's NE multispecies Category A DAS allocation for the subsequent fishing year shall be temporarily reduced by an amount proportional to the highest percentage overage by that sector of any of the stocks for which an overage occurred. For example, if a sector exceeded its GB cod ACE by 10 percent and its pollock ACE by 15 percent, each permit would receive a 15-percent reduction in its Category A DAS allocation for the subsequent fishing year if fishing under the provisions of the common pool.
- (3) ***Fishing prohibition.*** If a sector does not disband following an overage, but otherwise does not have sufficient ACE to cover an overage based upon the PSC of participating permits, that sector's ACE for the stock for which the overage occurred shall be temporarily reduced to zero for the following fishing year, and that sector shall be prohibited from fishing on a sector trip in the stock area associated with the stock for which the ACE was exceeded during the following year, unless and until that sector can acquire sufficient ACE from another sector to cover the remaining overage from the previous fishing year. For example, if a sector comprised of 10 permits/vessels was allocated 10 mt of GB cod ACE, but caught 25 mt during the previous fishing year (i.e., it exceeded its GB cod ACE by 15 mt), each permit/vessel that participating in that sector during the following fishing year would have its GB cod PSC temporarily reduced to zero during the subsequent fishing year, and that sector

would not be able to fish on a sector trip in the GB cod stock area until it could acquire at least an additional 5 mt of GB cod ACE from another sector (i.e., 15 mt overage—10 mt ACE for the following year = 5 mt overage remaining).

(C) **ACE buffer.** At the beginning of each fishing year, NMFS shall withhold 20 percent of a sector's ACE for each stock for a period of up to 61 days (i.e., through June 30), unless otherwise specified by NMFS, to allow time to process any ACE transfers submitted at the end of the fishing year pursuant to paragraph (b)(1)(viii) of this section and to determine whether the ACE allocated to any sector needs to be reduced, or any overage penalties need to be applied to individual permits/vessels in the current fishing year to accommodate an ACE overage by that sector during the previous fishing year, as specified in paragraph (b)(1)(iii) of this section. NMFS shall not withhold 20 percent of a sector's ACE at the beginning of a fishing year in which default specifications are in effect, as specified in § 648.90(a)(3).

(iv) **Sector enforcement —**

(A) **Sector compliance and joint/several liability.** Unless exempted through a letter of authorization specified in paragraph (c)(2) of this section, each vessel operator and/or vessel owner fishing under an approved sector must comply with all NE multispecies management measures of this part and other applicable law. Each vessel and vessel operator and/or vessel owner participating in a sector must also comply with all applicable requirements and conditions of the operations plan specified in paragraph (b)(2) of this section and the letter of authorization issued pursuant to paragraph (c)(2) of this section. Pursuant to 15 CFR part 904, each sector, permit/vessel owner, and vessel operator participating in the sector may be charged jointly and severally for violations of the following sector operations plan requirements, which may result in an assessment of civil penalties and permit sanctions: ACE overages, discarding of legal-sized NE multispecies, and misreporting of catch, including both landings and discards. For the purposes of enforcement, a sector is a legal entity that can be subject to NMFS enforcement action for violations of the regulations pertaining to sectors, as specified in this paragraph (b)(1)(iv).

(B) **Commitment to a sector.** A permit/vessel participating in a sector must remain in the sector for the remainder of the fishing year. Such permits/vessels cannot fish under both the sector provisions and the provisions of the common pool during that same fishing year for any reason, including, but not limited to, expulsion from the sector pursuant to enforcement actions or other measures specified in an approved sector operations plan, vessel replacement, or permit/vessel sale to another owner. For example, if a permit/vessel is sold by a sector participant during the fishing year, the new owner must comply with the sector regulations and the conditions of the sector operations plan, sector contract, or any other binding agreements among participating sector vessels for the remainder of the fishing year. If a permit/vessel has been expelled from a sector, the sector must notify NMFS of such an expulsion immediately. Any permit/vessel, vessel operator, or vessel owner removed from a sector during a specific fishing year consistent with sector rules shall not be eligible to fish in another sector or under the NE multispecies regulations for common pool vessels specified in this part for the remainder of that fishing year. For the purposes of this paragraph, "permit/vessel" refers to the fishing and

landings history associated with a particular permit/vessel enrolled in a specific sector at the start of the fishing year that was used to calculate the PSC for that permit/vessel and contribute to the ACE for each stock allocated to that specific sector.

- (v) **Sector reporting requirements.** In addition to the other reporting/recordkeeping requirements specified in this part, a sector's vessels must comply with the reporting requirements specified in this paragraph (b)(1)(v).
 - (A) **VMS declarations and trip-level catch reports.** Prior to each sector trip, a sector vessel must declare into broad stock areas in which the vessel fishes and submit the VTR serial number associated with that trip pursuant to § 648.10(k). The sector vessel must also submit a VMS catch report detailing regulated species and ocean pout catch by statistical area when fishing in multiple broad stock areas on the same trip, pursuant to § 648.10(k).
 - (B) **Weekly catch report.** Each sector must submit weekly reports to NMFS stating the remaining balance of ACE allocated to each sector based upon regulated species and ocean pout landings and discards of vessels participating in that sector and any compliance/enforcement concerns. These reports must include at least the following information, as instructed by the Regional Administrator: Week ending date; species, stock area, gear, number of trips, reported landings (landed pounds and live pounds), discards (live pounds), total catch (live pounds), status of the sector's ACE (pounds remaining and percent remaining), and whether this is a new or updated record of sector catch for each regulated species stock allocated to that particular sector; sector enforcement issues; and a list of vessels landing for that reporting week. These weekly catch reports must be submitted no later than 0700 hr on the second Monday after the reporting week, as defined in this part. The frequency of these reports must be increased to more than a weekly submission when the balance of remaining ACE is low, as specified in the sector operations plan and approved by NMFS. If requested, sectors must provide detailed trip-by-trip catch data to NMFS for the purposes of auditing sector catch monitoring data based upon guidance provided by the Regional Administrator.
 - (C) **Year-end report.** An approved sector must submit an annual year-end report to NMFS and the Council, no later than 60 days after the end of the fishing year, that summarizes the fishing activities of participating permits/vessels, which must include at least the following information: Catch, including landings and discards, of all species by sector vessels; the permit number of each sector vessel that fished for regulated species or ocean pout; the number of vessels that fished for non-regulated species or ocean pout; the method used to estimate discards by sector vessels; the landing port used by sector vessels; enforcement actions; and other relevant information required to evaluate the biological, economic, and social impacts of sectors and their fishing operations consistent with confidentiality requirements of applicable law.
 - (D) **Streamlining sector reporting requirements.** The reporting/recordkeeping requirements specified in § 648.11(l) and this paragraph (b)(1)(v) may be revised by the Regional Administrator in a manner consistent with the Administrative Procedure Act.
- (vi) **Interaction with other fisheries –**
 - (A) **Use of DAS.** A sector vessel must comply with all measures specified for another fishery pursuant to this part, including any requirement to use a NE multispecies DAS. If the regulations in this part for another fishery require the use of a NE multispecies DAS, the

DAS allocation and accrual provisions specified in § 648.82(d) and (e), respectively, apply to each trip by a sector vessel, as applicable. For example, if a sector vessel is also issued a limited access monkfish Category C permit and is required to use a NE multispecies DAS concurrent with a monkfish DAS under this part, any NE multispecies DAS used by the sector vessel accrues, as specified in § 648.82(e)(1)(ii) based upon the vessel's NE multispecies DAS allocation calculated pursuant to § 648.82(d)(1)(iv)(B).

- (B) **Availability of ACE.** Notwithstanding the requirements in paragraph (b)(1)(vi)(A) of this section, if a sector has not been allocated or does not acquire sufficient ACE available to cover the catch of a particular stock of regulated species while participating in another fishery in which such catch would apply to the ACE allocated to a sector, vessels participating in that sector cannot participate in those other fisheries unless NMFS has approved a sector operations plan that ensures that regulated species or ocean pout will not be caught while participating in these other fisheries.
- (vii) **ACE transfers.** All or a portion of a sector's ACE for any NE multispecies stock may be transferred to another sector at any time during the fishing year and up to 2 weeks into the following fishing year (*i.e.*, through May 14), unless otherwise instructed by NMFS, to cover any overages during the previous fishing year. A sector is not required to transfer ACE to another sector. An ACE transfer only becomes effective upon approval by NMFS, as specified in paragraph (b)(1)(vii)(B) of this section.
- (A) **Application to transfer ACE.** ACE may be transferred from one sector to another through written request to the Regional Administrator. This request must include the name of the sectors involved, the amount of each ACE to be transferred, the fishing year in which the ACE transfer applies, and the amount of compensation received for any ACE transferred, as instructed by the Regional Administrator.
- (B) **Approval of an ACE transfer request.** NMFS shall approve/disapprove a request to transfer ACE based upon compliance by each sector and its participating vessels with the reporting requirements specified in this part. The Regional Administrator shall inform both sectors in writing whether the ACE transfer request has been approved within 2 weeks of the receipt of the ACE transfer request.
- (C) **Duration of transfer.** Notwithstanding ACE carried over into the next fishing year pursuant to paragraph (b)(1)(i)(C) of this section, ACE transferred pursuant to this paragraph (b)(1)(vii) is only valid for the fishing year in which the transfer is approved, with the exception of ACE transfer requests that are submitted up to 2 weeks into the subsequent fishing year to address any potential ACE overages from the previous fishing year, as provided in paragraph (b)(1)(iii) of this section, unless otherwise instructed by NMFS.
- (viii) **Trip limits.** With the exception of stocks listed in § 648.86(1) and the Atlantic halibut trip limit at § 648.86(c), a sector vessel is not limited in the amount of allocated NE multispecies stocks that can be harvested on a particular fishing trip, unless otherwise specified in the operations plan.
- (2) **Operations plan and sector contract.** To be approved to operate, each sector must submit an operations plan and preliminary sector contract to the Regional Administrator no later than September 1 prior to the fishing year in which the sector intends to begin operations, unless otherwise instructed by NMFS. A final roster, sector contract, and list of Federal and state permits held by participating vessels for each sector must be submitted by December 1 prior to the fishing

year in which the sector intends to begin operations, unless otherwise instructed by NMFS. The operations plan may cover a 1- or 2-year period, provided the analysis required in paragraph (b)(3) of this section is sufficient to assess the impacts of sector operations during the 2-year period and that sector membership, or any other parameter that may affect sector operations during the second year of the approved operations plan, does not differ to the point where the impacts analyzed by the supporting National Environmental Policy Act (NEPA) document are compromised. Each vessel and vessel operator and/or vessel owner participating in a sector must agree to and comply with all applicable requirements and conditions of the operations plan specified in this paragraph (b)(2) and the letter of authorization issued pursuant to paragraph (c)(2) of this section. It shall be unlawful to violate any such conditions and requirements unless such conditions or restrictions are identified in an approved operations plan as administrative only. If a proposed sector does not comply with the requirements of this paragraph (b)(2), NMFS may decline to propose for approval such sector operations plans, even if the Council has approved such sector. At least the following elements must be contained in either the final operations plan or sector contract submitted to NMFS:

- (i) A list of all parties, vessels, and vessel owners who will participate in the sector;
- (ii) A list of all Federal and state permits held by persons participating in the sector, including an indication for each permit whether it is enrolled and will actively fish in a sector, or will be subject to the provisions of the common pool;
- (iii) A contract signed by all sector participants indicating their agreement to abide by the operations plan;
- (iv) The name of a designated representative or agent of the sector for service of process;
- (v) If applicable, a plan for consolidation or redistribution of ACE detailing the quantity and duration of such consolidation or redistribution within the sector;
- (vi) A list of the specific management rules the sector participants will agree to abide by in order to avoid exceeding the allocated ACE for each stock, including a plan of operations or cessation of operations once the ACEs of one or more stocks are harvested and detailed plans for enforcement of the sector rules;
- (vii) A plan that defines the procedures by which members of the sector that do not abide by the rules of the sector will be disciplined or removed from the sector, and a procedure for notifying NMFS of such expulsions from the sector;
- (viii) If applicable, a plan of how the ACE allocated to the sector is assigned to each vessel;
- (ix) If the operations plan is inconsistent with, or outside the scope of the NEPA analysis associated with the sector proposal/framework adjustment as specified in paragraph (a)(1) of this section, a supplemental NEPA analysis may be required with the operations plan;
- (x) Detailed information about overage penalties or other actions that will be taken if a sector exceeds its ACE for any stock;
- (xi) Detailed plans for the monitoring and reporting of landings and discards by sector participants, including, but not limited to, detailed information describing the sector's at-sea/electronic monitoring program for monitoring utilization of ACE allocated to that sector; identification of the independent third-party service providers employed by the sector to provide at-sea/electronic monitoring services; the mechanism and timing of any hail reports; a list of specific ports where participating vessels will land fish, with specific exemptions noted for safety,

weather, etc., allowed, provided the sector provides reasonable notification to NMFS concerning a deviation from the listed ports; and any other information about such a program required by NMFS;

- (xii) ACE thresholds that may trigger revisions to sector operations to ensure allocated ACE is not exceeded, and details regarding the sector's plans for notifying NMFS once the specified ACE threshold has been reached;
- (xiii) Identification of any potential redirection of effort into other fisheries expected as a result of sector operations, and, if necessary, proposed limitations to eliminate any adverse effects expected from such redirection of effort;
- (xiv) If applicable, description of how regulated species and ocean pout will be avoided while participating in other fisheries that have a bycatch of regulated species or ocean pout if the sector does not have sufficient ACE for stocks of regulated species or ocean pout caught as bycatch in those fisheries, as specified in paragraph (b)(1)(vi)(B) of this section; and
- (xv) A list of existing regulations in this part that the sector is requesting exemption from during the following fishing year pursuant to paragraph (c)(2) of this section.

- (3) **NEPA analysis.** In addition to the documents required by paragraphs (a)(1) and (b)(2) of this section, before NMFS can approve a sector to operate during a particular fishing year, each sector must develop and submit to NMFS, in conjunction with the yearly operations plan and sector contract, an appropriate NEPA analysis assessing the impacts of forming the sector and operating under the measures described in the sector operations plan.

(c) ***Approval of a sector and granting of exemptions by the Regional Administrator.***

- (1) Once the Regional Administrator has made a preliminary determination that the documents submitted pursuant to paragraphs (a)(1), (b)(2), and (b)(3) of this section appear to comply with the requirements of this section, NMFS may consult with the Council and approve or disapprove sector operations consistent with the Administrative Procedure Act and other applicable law.
- (2) If a sector is approved, the Regional Administrator shall issue a letter of authorization to each vessel operator and/or vessel owner participating in the sector. The letter of authorization shall authorize participation in the sector operations and may exempt participating vessels from any Federal fishing regulation implementing the NE multispecies FMP, except those specified in paragraphs (c)(2)(i) and (ii) of this section, in order to allow vessels to fish in accordance with an approved operations plan, provided such exemptions are consistent with the goals and objectives of the FMP. The letter of authorization may also include requirements and conditions deemed necessary to ensure effective administration of, and compliance with, the operations plan and the sector allocation. Solicitation of public comment on, and NMFS final determination on such exemptions shall be consistent with paragraphs (c)(1) and (2) of this section.
 - (i) ***Regulations that may not be exempted for sector participants.*** The Regional Administrator may not exempt participants in a sector from the following Federal fishing regulations: Specific times and areas within the NE multispecies year-round closure areas; permitting restrictions (e.g., vessel upgrades, etc.); gear restrictions designed to minimize habitat impacts (e.g., roller gear restrictions, etc.); reporting requirements; and AMs specified in § 648.90(a)(5)(i)(D) through (H). For the purposes of this paragraph (c)(2)(i), the DAS reporting requirements specified in § 648.82, the SAP-specific reporting requirements specified in § 648.85, VMS requirements for Handgear A category permitted vessels as specified in § 648.10, and the

reporting requirements associated with a dockside monitoring program are not considered reporting requirements, and the Regional Administrator may exempt sector participants from these requirements as part of the approval of yearly operations plans. For the purpose of this paragraph (c)(2)(i), the Regional Administrator may not grant sector participants exemptions from the NE multispecies year-round closures areas defined as Habitat Management Areas as defined in § 648.370; Closed Area I North and Closed Area II, as defined in § 648.81(c)(3) and (4), respectively, during the period February 16 through April 30; and the Western GOM Closure Area, as defined at § 648.81(a)(4), where it overlaps with GOM Cod Protection Closures I through III, as defined in § 648.81(d)(4). This list may be modified through a framework adjustment, as specified in § 648.90.

- (ii) **Universal sector exemptions.** All sector vessels are exempt from the following Federal fishing regulations under this part:
 - (A) Trip limits on NE multispecies stocks for which a sector receives an allocation of ACE pursuant to paragraph (b)(1)(i) of this section (i.e., all stocks except Atlantic halibut, ocean pout, windowpane flounder, and Atlantic wolffish);
 - (B) The GOM Cod Protection Closures IV and V specified in § 648.81(d)(4)(iv) and (v);
 - (C) NE multispecies DAS restrictions other than those required to comply with effort controls in other fisheries, as specified in §§ 648.92 and 648.322;
 - (D) The minimum codend mesh size restrictions for trawl gear specified in § 648.80(a)(4)(i) when using a haddock separator trawl defined in § 648.85(a)(3)(iii) or the Ruhle trawl defined in § 648.85(b)(6)(iv)(J)(3) within the GB RMA, as defined in § 648.80(a)(2), provided sector vessels use a codend with 6-inch (15.2-cm) minimum mesh; and
 - (E) The minimum codend mesh size restrictions for trawl gear specified in § 648.80(a)(3)(i) or (a)(4)(i) when fishing in compliance with the provisions of the Redfish Exemption Program defined in § 648.85(e)(1).
- (3) The Regional Administrator may withdraw approval of a sector, after consultation with the Council, at any time, if it is determined that sector participants are not complying with the requirements of an approved operations plan or that the continuation of the operations plan will undermine achievement of fishing mortality objectives of the FMP. Withdrawal of approval of a sector may only be done in a manner consistent with the Administrative Procedure Act and other applicable law.
- (4) Any sector may submit a written request to amend its approved operations plan to the Regional Administrator. If the amendment is administrative in nature, within the scope of and consistent with the actions and impacts previously considered for current sector operations, the Regional Administrator may approve an administrative amendment in writing. The Regional Administrator may approve substantive changes to an approved operations plan in a manner consistent with the Administrative Procedure Act and other applicable law. All approved operations plan amendments will be published on the regional office Web site and will be provided to the Council.
- (d) **Approved sector allocation proposals.** Eligible NE multispecies vessels, as specified in paragraph (a)(3) of this section, may participate in the sectors identified in paragraphs (d)(1) through (26) of this section, provided the operations plan is approved by the Regional Administrator in accordance with paragraph (c) of this section and each participating vessel and vessel operator and/or vessel owner complies with the requirements of the operations plan, the requirements and conditions specified in the letter of

authorization issued pursuant to paragraph (c) of this section, and all other requirements specified in this section. All operational aspects of these sectors shall be specified pursuant to the operations plan and sector contract, as required by this section.

- (1) GB Cod Hook Sector.
- (2) GB Cod Fixed Gear Sector.
- (3) Mooncusser Sector.
- (4) Sustainable Harvest Sector.
- (5) Sustainable Harvest Sector II.
- (6) Sustainable Harvest Sector III.
- (7) Port Clyde Community Groundfish Sector.
- (8) Northeast Fishery Sector I.
- (9) Northeast Fishery Sector II.
- (10) Northeast Fishery Sector III.
- (11) Northeast Fishery Sector IV.
- (12) Northeast Fishery Sector V.
- (13) Northeast Fishery Sector VI.
- (14) Northeast Fishery Sector VII.
- (15) Northeast Fishery Sector VIII.
- (16) Northeast Fishery Sector IX.
- (17) Northeast Fishery Sector X.
- (18) Northeast Fishery Sector XI.
- (19) Northeast Fishery Sector XII.
- (20) Northeast Fishery Sector XIII.
- (21) Tristate Sector.
- (22) Northeast Coastal Communities Sector.
- (23) State of Maine Permit Banking Sector.
- (24) State of Rhode Island Permit Bank Sector.
- (25) State of New Hampshire Permit Bank Sector.
- (26) State of Massachusetts Permit Bank Sector.

- (e) **State-operated permit bank.** A state-operated permit bank must meet and is subject to the following requirements and conditions:

- (1) The state-operated permit bank must be initially established using a Federal grant award from NOAA through a valid Memorandum of Agreement (MOA) with NMFS and the state must maintain and comply with such MOA. The MOA must contain and the state must comply with at least the following requirements and conditions:
 - (i) The state may not associate a state-operated permit bank permit with a vessel engaged in any fishing or other on-the-water activities;
 - (ii) The state must establish the minimum eligibility criteria to determine whether a sector and its associated vessels are qualified to receive either ACE or DAS from the state-operated permit bank;
 - (iii) The state must identify a program contact person for the state agency administering the state-operated permit bank;
 - (iv) The state must provide to NMFS a list of all permits held by the state under the aegis of the state-operated permit bank, and declare which permits will be used in the coming fishing year for exclusively DAS leasing to common pool vessels and which permits are to be used exclusively for transferring ACE to sectors (including the leasing of DAS to sector vessels for the purpose of complying with the requirements of other FMPs); and
 - (v) The state must prepare and submit an annual performance report to NMFS, and that said performance report must include, at a minimum, the following elements:
 - (A) A comprehensive listing of all permits held by the state-operated permit bank, identifying whether a permit was used for ACE transfers to sectors (including DAS leases to the sector members) or DAS leases to common pool vessels, the total amount of ACE, by stock, and DAS available to the state-operated permit bank for transfers and leases to sectors and common-pool vessels;
 - (B) A comprehensive listing of all sectors to which ACE was transferred from the state-operated permit bank, including the amount, by stock, of ACE transferred to each sector, including a list of all vessels that harvested the ACE transferred to the sector and the amounts harvested;
 - (C) A comprehensive listing of all sector vessels to which DAS were leased from the state-operated permit bank, including the number of DAS leased to each sector vessel; and
 - (D) A comprehensive listing of all common pool vessels to which DAS were leased from the state-operated permit bank, including the number of DAS leased to each common pool vessel.
- (2) **Eligibility.** If a state is issued a permit that meets sector eligibility requirements, as defined in paragraph (a)(3) of this section, such permit may be held by a state-operated permit bank.
- (3) **Allocation and utilization of ACE –**
 - (i) **Allocation of ACE.** The amount of ACE allocated to a state-operated permit bank shall be derived from the permits appropriately declared by the state to be “ACE permits,” pursuant to paragraph (e)(1)(i)(v) of this section, for the fishing year and allocated on a stock-by-stock basis pursuant to paragraph (b)(1)(i) of this section.

- (ii) **Acquiring ACE.** Except as provided in this paragraph, a state-operated permit bank may not acquire ACE for a fishing year through a transfer from a sector. If ACE is transferred to a sector from a state-operated permit bank, NMFS may authorize the return of the unused portion of such ACE (up to the total originally transferred) to the state-operated permit bank upon written agreement by both parties. The state-operated permit bank may then redistribute the available ACE to another qualifying sector during that fishing year.
 - (iii) **Transferring ACE.** Subject to the terms and conditions of the state-operated permit bank's MOAs with NMFS, as well as ACE transfer restrictions described in paragraph (b)(1)(viii) of this section, a state-operated permit bank may transfer ACE, on a stock-by-stock basis, to other state-operated permit banks.
 - (iv) **Reallocation of GB haddock or GB cod ACE.** Subject to the terms and conditions of the state-operated permit bank's MOAs with NMFS, a state-operated permit bank may re-allocate all, or a portion, of its GB haddock or GB cod ACE specified for the Eastern U.S./Canada Area to the Western U.S./Canada Area provided it complies with the requirements in paragraph (b)(1)(i)(B)(2) of this section.
- (4) **Allocation and utilization of days-at-sea –**
- (i) **Allocation of DAS.** The number of DAS available for a state-operated permit bank to provide to sector or common pool vessels shall be the accumulated NE Multispecies Category A DAS assigned to the fishing vessel permits held by the state and appropriately declared by the state pursuant to paragraph (e)(1)(v) of this section to be either “ACE permits” or “common pool permits” for that fishing year, consistent with the terms of the state's permit bank MOA.
 - (ii) **Acquiring DAS.** A state-operated permit bank may not acquire DAS through a lease from a vessel permit (including permits held by other state-operated permit banks), as described in § 684.82(k). If a vessel leases DAS from a state-operated permit bank, NMFS may authorize the return of the unused portion of such DAS to the state-operated permit bank upon written agreement by both parties, provided none of the DAS had been used. The state-operated permit bank may then redistribute the available DAS to another vessel during the same fishing year.
- (5) **Annual report.** A state-operated permit bank shall report to the Council annually on the performance of the state-operated permit bank. Such reports shall include at a minimum and to the extent that the information does not conflict with any regulations regarding the protection of personal and/or proprietary information, all elements listed in paragraph (e)(1)(v) of this section.
- (6) **Use of additional funds.** If additional funds from any source become available to a state-operated permit bank, the state-operated permit bank may not allocate or transfer any ACE that may be associated with any new permit purchased with those funds, until the state-operated permit bank provides the Council the opportunity to review the implications of the expanded state-operated permit bank to the goals and objectives of the NE Multispecies FMP.
- (7) **Violation of the terms and conditions applicable to a state-operated permit bank.** If a state or state-operated permit bank violates or fails to comply with any of the requirements and conditions specified in this section or in the MOA referenced in paragraph (e)(1) of this section, the state or state-operated permit bank is subject to the actions and penalties specified in § 648.4(n) or the MOA.

[75 FR 18338, 18374, Apr. 9, 2010]

Editorial Note: For FEDERAL REGISTER citations affecting § 648.87, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.govinfo.gov.

§ 648.88 Multispecies open access permit restrictions.

- (a) **Handgear permit.** 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 75 lb (90.7 kg) of cod, and up to the landing and possession limit restrictions for other NE multispecies specified in § 648.86, provided the vessel complies with the restrictions specified in paragraph (a)(2) of this section. If either the GOM or GB cod trip limit applicable to a vessel fishing under a NE multispecies DAS permit, as specified in § 648.86(b)(1) and (2), respectively, is adjusted by NMFS, the cod trip limit specified in this paragraph (a)(1) shall be adjusted proportionally (rounded up to the nearest 25 lb (11.3 kg)). For example, if the GOM cod trip limit specified at § 648.86(b)(1) doubled, then the cod trip limit for the Handgear B category fishing in the GOM Regulated Mesh Area would also double to 150 lb (68 kg).
 - (2) **Restrictions:**
 - (i) The vessel may not use or possess on board gear other than handgear while in possession of, fishing for, or landing NE multispecies, and must have at least one standard tote on board;
 - (ii) The vessel may not fish for, possess, or land regulated species from March 1 through March 20 of each year; and
 - (iii) The vessel, if fishing with tub-trawl gear, may not fish with more than a maximum of 250 hooks.
 - (iv) **Declaration.** To fish for GB cod south of the GOM Regulated Mesh Area, as defined at § 648.80(a)(1), a vessel owner or operator must obtain, and retain on board, a letter of authorization from the Regional Administrator declaring an intent to fish south of the GOM Regulated Mesh Area, and may not fish in any other area for a minimum of 7 consecutive days from the effective date of the letter of authorization. Such a vessel may transit the GOM Regulated Mesh Area, provided that their gear is stowed and not available for immediate use as defined in § 648.2.
- (b) **Charter/party permit.** A vessel that has been issued a valid open access NE multispecies charter/party permit is subject to the additional restrictions on gear, recreational minimum fish sizes, possession limits, and prohibitions on sale specified in § 648.89, and any other applicable provisions of this part.
- (c) **Scallop NE multispecies possession limit permit.** With the exception of vessels fishing in the Sea Scallop Access Areas as specified in § 648.59(b) through (d), a vessel that has been issued a valid open access scallop NE multispecies possession limit permit may possess and land up to 300 lb (136.1 kg) of regulated NE multispecies when fishing under a scallop DAS allocated under § 648.53, provided the vessel does not fish for, possess, or land haddock from January 1 through June 30, as specified under § 648.86(a)(2)(i), and provided that the amount of regulated NE multispecies on board the vessel does not exceed any of the pertinent trip limits specified under § 648.86, and provided the vessel has at least one standard tote on board. A vessel fishing in the Sea Scallop Access Areas as specified in § 648.59(b) through (d) is subject to the possession limits specified in § 648.60(a)(5)(ii).

- (d) **Non-regulated NE multispecies permit.** A vessel issued a valid open access non-regulated NE multispecies permit may possess and land one Atlantic halibut and unlimited amounts of the other non-regulated NE multispecies, unless otherwise restricted by § 648.86. The vessel is subject to restrictions on gear, area, and time of fishing specified in § 648.80 and any other applicable provisions of this part.

[69 FR 22983, Apr. 27, 2004, as amended at 69 FR 63481, Nov. 2, 2004; 71 FR 62195, Oct. 23, 2006; 75 FR 18348, Apr. 9, 2010; 76 FR 23075, Apr. 25, 2011; 77 FR 19143, Mar. 30, 2012; 79 FR 52580, Sept. 4, 2014; 79 FR 67375, Nov. 13, 2014; 80 FR 25141, May 1, 2015]

§ 648.89 Recreational and charter/party vessel restrictions.

- (a) **Recreational gear restrictions.** Persons aboard charter/party vessels permitted under this part and not fishing under the DAS program or under the restrictions and conditions of an approved sector operations plan, as specified in § 648.87(c), and recreational fishing vessels in the EEZ, are prohibited from fishing with more than one line per angler, and all other gear on board must be stowed and not available for immediate use as defined in § 648.2.
- (b) **Recreational minimum and maximum fish sizes —**
- (1) **Minimum and maximum fish sizes.** Unless further restricted under this section, persons aboard charter or party boats permitted under this part and not fishing under the NE multispecies DAS program or under the restrictions and conditions of an approved sector operations plan, and private recreational fishing vessels may not possess fish in or from the EEZ that are smaller than the minimum fish sizes or larger than the maximum fish sizes, measured in total length, as follows:

TABLE 1 TO PARAGRAPH (b)(1)

Species	Charter/party minimum size		Private minimum size		Maximum size	
	inches	cm	inches	cm	inches	cm
Cod:						
Inside GOM Regulated Mesh Area ¹	23	58.4	23	58.4	N/A	N/A
Outside GOM Regulated Mesh Area ¹	23	58.4	23	58.4	N/A	N/A
Haddock:						
Inside GOM Regulated Mesh Area ¹	18	45.7	18	45.7	N/A	N/A
Outside GOM Regulated Mesh Area ¹	18	45.7	18	45.7	N/A	N/A
Pollock	19	48.3	19	48.3	N/A	N/A
Witch Flounder (gray sole)	14	35.6	14	35.6	N/A	N/A
Yellowtail Flounder	13	33.0	13	33.0	N/A	N/A
American Plaice (dab)	14	35.6	14	35.6	N/A	N/A
Atlantic Halibut	41	104.1	41	104.1	N/A	N/A
Winter Flounder (black back)	12	30.5	12	30.5	N/A	N/A

¹ GOM Regulated Mesh Area specified in § 648.80(a).

Species	Charter/party minimum size		Private minimum size		Maximum size	
	inches	cm	inches	cm	inches	cm
Redfish	9	22.9	9	22.9	N/A	N/A

¹ GOM Regulated Mesh Area specified in § 648.80(a).

(2) **Exceptions –**

- (i) **Fillet size.** Vessels may possess fillets less than the minimum size specified, if the fillets are taken from legal-sized fish and are not offered or intended for sale, trade or barter.
- (ii) **Transiting.** Vessels in possession of cod or haddock caught outside the GOM Regulated Mesh Area specified in § 648.80(a)(1) may transit this area with cod and haddock that meet the minimum size specified for fish caught outside the GOM Regulated Mesh Area specified in § 648.80(b)(1), provided all bait and hooks are removed from fishing rods, and any cod and haddock on board has been gutted and stored.
- (3) **Fillets.** Fish fillets, or parts of fish, must have at least 2 square inches (5.1 square cm) of skin on while possessed on board a vessel and at the time of landing in order to meet minimum size requirements. The skin must be contiguous and must allow ready identification of the fish species.

(c) **Possession Restrictions –**

- (1) **Private recreational vessels.** Persons aboard private recreational fishing vessels during the open season listed in the column titled “Open Season” in Table 2 to paragraph (c)(1)(i), may not possess more fish in or from the EEZ than the amount listed in the column titled “Possession Limit” in Table 2 to paragraph (c)(1)(i).
 - (i) **Closed season.** Persons aboard private recreational fishing vessels may not possess species, as specified in the column titled “Species” in Table 2 to paragraph (c)(1)(i), in or from the EEZ during that species closed season as specified in the column titled “Closed Season” in Table 2 to paragraph (c)(1)(i).

TABLE 2 TO PARAGRAPH (c)(1)(i)

Stock	Open season	Possession limit	Closed season
GB Cod	September 1-April 30; May 1-31	5	June 1-August 31.
GOM Cod	September 1-October 31	1	May 1-August 31; November 1-April 30.
GB Haddock	All Year	Unlimited	N/A.

Stock	Open season	Possession limit	Closed season
GOM Haddock	May 1-February 28 (or 29); April 1-30	15	March 1-March 31.
GB Yellowtail Flounder	All Year	Unlimited	N/A.
SNE/MA Yellowtail Flounder	All Year	Unlimited	N/A.
CC/GOM Yellowtail Flounder	All Year	Unlimited	N/A.
American Plaice	All Year	Unlimited	N/A.
Witch Flounder	All Year	Unlimited	N/A.
GB Winter Flounder	All Year	Unlimited	N/A.
GOM Winter Flounder	All Year	Unlimited	N/A.
SNE/MA Winter Flounder	All Year	Unlimited	N/A.
Redfish	All Year	Unlimited	N/A.
White Hake	All Year	Unlimited	N/A.
Pollock	All Year	Unlimited	N/A.
Northern Windowpane Flounder	CLOSED	No retention	All Year.
Southern Windowpane Flounder	CLOSED	No retention	All Year.
Ocean Pout	CLOSED	No retention	All Year.
Atlantic Halibut	See paragraph (c)(3) of this section.		
Atlantic Wolffish	CLOSED	No retention	All Year.

(ii) [Reserved]

- (2) **Charter or Party Boats.** Persons aboard party or charter boats during the open season listed in the column titled “Open Season” in Table 3 to paragraph (c)(2), may not possess more fish in or from the EEZ than the amount listed in the column titled “Possession Limit” in Table 3 to paragraph (c)(2).

TABLE 3 TO PARAGRAPH (c)(2)

Stock	Open season	Possession limit	Closed season
GB Cod	September 1-April 30 May 1-31	5	June 1-August 31.
GOM Cod	September 1-October 31	1	May 1-August 31. November 1-April

Stock	Open season	Possession limit	Closed season
GB Haddock	All Year	Unlimited	30. N/A.
GOM Haddock	May 1-February 28 (or 29) April 1-30	15	March 1-March 31.
GB Yellowtail Flounder	All Year	Unlimited	N/A.
SNE/MA Yellowtail Flounder	All Year	Unlimited	N/A.
CC/GOM Yellowtail Flounder	All Year	Unlimited	N/A.
American Plaice	All Year	Unlimited	N/A.
Witch Flounder	All Year	Unlimited	N/A.
GB Winter Flounder	All Year	Unlimited	N/A.
GOM Winter Flounder	All Year	Unlimited	N/A.
SNE/MA Winter Flounder	All Year	Unlimited	N/A.
Redfish	All Year	Unlimited	N/A.
White Hake	All Year	Unlimited	N/A.
Pollock	All Year	Unlimited	N/A.
N. Windowpane Flounder	CLOSED	No retention	All Year.
S. Windowpane Flounder	CLOSED	No retention	All Year.
Ocean Pout	CLOSED	No retention	All Year.
Atlantic Halibut	See Paragraph (c)(3).		
Atlantic Wolffish	CLOSED	No retention	All Year.

- (3) **Atlantic halibut.** Vessels permitted under this part, and recreational fishing vessels fishing in the EEZ, may not possess more than one Atlantic halibut on board the vessel.
- (4) **Accounting of daily possession limit.** For the purposes of determining the per day trip limit for cod and haddock for private recreational fishing vessels and charter or party boats, any trip in excess of 15 hours and covering 2 consecutive calendar days will be considered more than 1 day. Similarly, any trip in excess of 39 hours and covering 3 consecutive calendar days will be considered more than 2 days and, so on, in a similar fashion.
- (5) **Fillet conversion.** For purposes of counting fish for cod and haddock for private recreational fishing vessels and charter or party boats, if fish are filleted, fillets will be converted to whole fish 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.
- (6) **Application of daily possession limit.** Compliance with the daily possession limit for cod and haddock harvested by party, charter, and private recreational fishing vessels, in or from the EEZ, with more than one person aboard, 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 daily 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.

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

(d) **Restrictions on sale.** It is unlawful to sell, barter, trade, or otherwise transfer for a commercial purpose, or to attempt to sell, barter, trade, or otherwise transfer for a commercial purpose, NE multispecies caught in or landed from the EEZ by recreational, charter, or party vessels permitted under this part not fishing under a DAS, on a sector trip, or under a Handgear A permit, Handgear B permit, or Small Vessel Category C permit.

(e) **Charter/party vessel restrictions on fishing in GOM closed areas and the Nantucket Lightship Closed Area —**

(1) **GOM closed areas.**

(i) A vessel fishing under charter/party regulations may not fish in the GOM closed areas specified in § 648.81(a)(3) and (4) and (d)(4) during the time periods specified in those paragraphs, unless the vessel has on board a valid letter of authorization issued by the Regional Administrator pursuant to § 648.81(d)(5)(v) and paragraph (e)(3) of this section. The conditions and restrictions of the letter of authorization must be complied with for a minimum of 3 months if the vessel fishes or intends to fish in the GOM cod protection closures; or for the rest of the fishing year, beginning with the start of the participation period of the letter of authorization, if the vessel fishes or intends to fish in the year-round GOM closure areas.

(ii) A vessel fishing under charter/party regulations may not fish in the GOM Cod Spawning Protection Area specified at § 648.81(b)(3) during the time period specified in that paragraph, unless the vessel complies with the requirements specified at § 648.81(b)(2)(iii).

(2) [Reserved]

(3) **Letters of authorization.** To obtain either of the letters of authorization specified in paragraphs (e)(1) and (2) of this section, a vessel owner must request a letter from the NMFS Greater Atlantic Regional Fisheries Office, either in writing or by phone (see Table 1 to 50 CFR 600.502). As a condition of these letters of authorization, the vessel owner must agree to the following:

(i) The letter of authorization must be carried on board the vessel during the period of participation;

(ii) Fish species managed by the NEFMC or MAFMC that are harvested or possessed by the vessel, are not sold or intended for trade, barter or sale, regardless of where the fish are caught;

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

(iv) For the GOM charter/party closed area exemption only, the vessel may not fish on a sector trip, under a NE multispecies DAS, or under the provisions of the NE multispecies Small Vessel Category or Handgear A or Handgear B permit categories, as specified at § 648.82, during the period of participation.

(f) **Recreational fishery AM —**

(1) **Catch evaluation.** As soon as recreational catch data are available for the entire previous fishing year, the Regional Administrator will evaluate whether recreational catches exceed any of the sub-ACLs specified for the recreational fishery pursuant to § 648.90(a)(4). When evaluating recreational catch,

the components of recreational catch that are used shall be the same as those used in the most recent assessment for that particular stock. To determine if any sub-ACL specified for the recreational fishery was exceeded, the Regional Administrator shall compare the 3-year average of recreational catch to the 3-year average of the recreational sub-ACL for each stock.

- (2) **Reactive AM adjustment.** If it is determined that any recreational sub-ACL was exceeded, as specified in paragraph (f)(1) of this section, the Regional Administrator, after consultation with the NEFMC, shall develop measures necessary to prevent the recreational fishery from exceeding the appropriate sub-ACL in future years. Appropriate AMs for the recreational fishery, including adjustments to fishing season, minimum fish size, or possession limits, may be implemented in a manner consistent with the Administrative Procedure Act, with final measures published in the FEDERAL REGISTER no later than January when possible. Separate AMs shall be developed for the private and charter/party components of the recreational fishery.
- (3) **Proactive AM adjustment.** When necessary, the Regional Administrator, after consultation with the NEFMC, may adjust recreational measures to ensure the recreational fishery achieves, but does not exceed any recreational fishery sub-ACL in a future fishing year. Appropriate AMs for the recreational fishery, including adjustments to fishing season, minimum fish size, or possession limits, may be implemented in a manner consistent with the Administrative Procedure Act, with final measures published in the FEDERAL REGISTER prior to the start of the fishing year where possible. In specifying these AMs, the Regional Administrator shall take into account the non-binding prioritization of possible measures recommended by the NEFMC: For cod, first increases to minimum fish sizes, then adjustments to seasons, followed by changes to bag limits; and for haddock, first increases to minimum size limits, then changes to bag limits, and then adjustments to seasons.
- (g) **Regional Administrator authority for Georges Bank cod recreational measures.** For the 2023 and 2024 fishing years, the Regional Administrator, after consultation with the NEFMC, may adjust recreational measures for Georges Bank cod to prevent the recreational fishery from exceeding the annual catch target as determined by the NEFMC. Appropriate measures, including adjustments to fishing seasons, minimum fish sizes, or possession limits, may be implemented in a manner consistent with the Administrative Procedure Act, with the final measures published in the FEDERAL REGISTER prior to the start of the fishing year when possible. Separate measures may be implemented for the private and charter/party components of the recreational fishery. Measures in place in fishing year 2024 will be in effect beginning in fishing year 2025, and will remain in effect until they are changed by a Framework Adjustment or Amendment to the FMP, or through an emergency action.

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Editorial Note: For FEDERAL REGISTER citations affecting § 648.89, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.govinfo.gov.

§ 648.90 NE multispecies assessment, framework procedures and specifications, and flexible area action system.

For the NE multispecies framework specification process described in this section, the regulated species and ocean pout biennial review is considered a separate process from the small-mesh species annual review, as described in paragraphs (a)(2) and (b)(1), respectively, of this section. In addition, the process for specifying ABCs and

associated ACLs for regulated species and ocean pout, as described in paragraph (a)(4) of this section, is considered a separate process from the small-mesh species ABC and ACL process described in paragraph (b)(2) of this section.

- (a) **NE multispecies.** For the purpose of this paragraph (a), the term “NE multispecies fishery” is defined as common pool vessels, sector vessels, and private recreational and charter/party vessels, as defined in this part; the term “NE multispecies commercial fishery” is defined as vessels issued a limited access NE multispecies permit, or an open access NE multispecies Handgear B permit; and the term “NE multispecies recreational fishery” is defined as private recreational vessels and charter or party boats, as further defined in this part.
- (1) **NE Multispecies annual SAFE Report.** The NE Multispecies Plan Development Team (PDT) shall prepare an annual Stock Assessment and Fishery Evaluation (SAFE) Report for the NE multispecies fishery. The SAFE Report shall be the primary vehicle for the presentation of all updated biological and socio-economic information regarding the NE multispecies complex and its associated fisheries. The SAFE report shall provide source data for any adjustments to the management measures that may be needed to continue to meet the goals and objectives of the FMP.
- (2) **Biennial review.**
- (i) At a minimum, the NE multispecies PDT shall meet on or before September 30 every other year to perform a review of the fishery, using the most current scientific information available provided primarily from the NEFSC. Data provided by states, ASMFC, the USCG, and other sources may also be considered by the PDT. The PDT shall review available data pertaining to: Catch and landings, discards, DAS allocations, DAS use, sector operations, and other measures of fishing effort; survey results; stock status; current estimates of fishing mortality and overfishing levels; social and economic impacts; enforcement issues; and any other relevant information. The PDT may also review the performance of different user groups or fleet sectors.
- (ii) Based on this review, the PDT shall recommend ACLs for the upcoming fishing year(s), as described in paragraph (a)(4) of this section, and develop options for consideration by the Council, if necessary, on any changes, adjustments, or additions to DAS allocations, closed areas, or other measures necessary to rebuild overfished stocks and achieve the FMP goals and objectives, which may include a preferred option. The range of options developed by the PDT may include any of the management measures in the FMP, including, but not limited to: ACLs, which must be based on the projected fishing mortality levels required to meet the goals and objectives outlined in the FMP for the 12 regulated species and ocean pout if able to be determined; identifying and distributing ACLs and other sub-components of the ACLs among various segments of the fishery; AMs; DAS changes; possession limits; gear restrictions; closed areas; permitting restrictions; minimum fish sizes; recreational fishing measures; describing and identifying EFH; fishing gear management measures to protect EFH; designating habitat areas of particular concern within EFH; and changes to the SBRM, including the CV-based performance standard, the means by which discard data are collected/obtained, fishery stratification, the process for prioritizing observer sea-day allocations, reports, and/or industry-funded observers or observer set aside programs. The PDT must demonstrate through analyses and documentation that the options it develops are expected to meet the FMP goals and objectives.

- (iii) In addition, the PDT may develop ranges of options for any of the management measures in the FMP and the following conditions that may be adjusted through a framework adjustment to achieve FMP goals and objectives including, but not limited to:
- (A) Revisions to DAS measures, including DAS allocations (such as the distribution of DAS among the four categories of DAS), future uses for Category C DAS, and DAS baselines, adjustments for steaming time, etc.;
 - (B) Accumulation limits due to a permit buyout or buyback;
 - (C) Modifications to capacity measures, such as changes to the DAS transfer or DAS leasing measures;
 - (D) Calculation of area-specific ACLs (including sub-ACLs for specific stocks and areas (e.g., Gulf of Maine cod)), area management boundaries, and adoption of area-specific management measures including the delineation of inshore/offshore fishing practices, gear restrictions, declaration time periods;
 - (E) Sector allocation requirements and specifications, including the establishment of a new sector, the disapproval of an existing sector, the allowable percent of ACL available to a sector through a sector allocation, an optional sub-ACL specific to Handgear A permitted vessels, management uncertainty buffers, and the calculation of PSCs;
 - (F) Sector administration provisions, including at-sea, electronic, dockside, and other monitoring tools, coverage requirements and processes, monitoring program review, or other measures; sector reporting requirements; vessel-specific coverage levels;
 - (G) State-operated permit bank administrative provisions;
 - (H) Measures to implement the U.S./Canada Resource Sharing Understanding, including any specified TACs (hard or target);
 - (I) Changes to administrative measures;
 - (J) Additional uses for Regular B DAS;
 - (K) Reporting requirements;
 - (L) Declaration requirements pertaining to when and what time period a vessel must declare into or out of a fishery management area;
 - (M) The GOM Inshore Conservation and Management Stewardship Plan;
 - (N) Adjustments to the Handgear A or B permits;
 - (O) Gear requirements to improve selectivity, reduce bycatch, and/or reduce impacts of the fishery on EFH;
 - (P) Special Access Program (SAP) modifications;
 - (Q) Revisions to the ABC control rule and status determination criteria, including, but not limited to, changes in the target fishing mortality rates, minimum biomass thresholds, numerical estimates of parameter values, and the use of a proxy for biomass may be made either through a biennial adjustment or framework adjustment;

- (R) Changes to the SBRM, including the CV-based performance standard, the means by which discard data are collected/obtained, fishery stratification, the process for prioritizing observer sea-day allocations, reports, and/or industry-funded observers or observer set aside programs; and
 - (S) Any other measures currently included in the FMP.
- (iv) [Reserved]
- (v) The Council shall review the ACLs recommended by the PDT and all of the options developed by the PDT and other relevant information; consider public comment; and develop a recommendation to meet the FMP objectives pertaining to regulated species or ocean pout that is consistent with applicable law. If the Council does not submit a recommendation that meets the FMP objectives and is consistent with applicable law, the Regional Administrator may adopt any option developed by the PDT, unless rejected by the Council, as specified in paragraph (a)(2)(vii) of this section, provided the option meets the FMP objectives and is consistent with applicable law.
 - (vi) Based on this review, the Council shall submit a recommendation to the Regional Administrator of any changes, adjustments or additions to DAS allocations, closed areas or other measures necessary to achieve the FMP's goals and objectives. The Council shall include in its recommendation supporting documents, as appropriate, concerning the environmental and economic impacts of the proposed action and the other options considered by the Council.
 - (vii) If the Council submits, on or before December 1, a recommendation to the Regional Administrator after one Council meeting, and the Regional Administrator concurs with the recommendation, the Regional Administrator shall publish the Council's recommendation in the FEDERAL REGISTER as a proposed rule with a 30-day public comment period. The Council may instead submit its recommendation on or before February 1, if it chooses to follow the framework process outlined in paragraph (c) of this section, and requests that the Regional Administrator publish the recommendation as a final rule, in a manner consistent with the Administrative Procedure Act. If the Regional Administrator concurs that the Council's recommendation meets the FMP objectives and is consistent with other applicable law, and determines that the recommended management measures should be published as a final rule, the action will be published as a final rule in the FEDERAL REGISTER, in a manner consistent with the Administrative Procedure Act. If the Regional Administrator concurs that the recommendation meets the FMP objectives and is consistent with other applicable law and determines that a proposed rule is warranted, and, as a result, the effective date of a final rule falls after the start of the fishing year on May 1, fishing may continue. However, DAS used or regulated species or ocean pout landed by a vessel on or after May 1 will be counted against any DAS or sector ACE allocation the vessel or sector ultimately receives for that year, as appropriate.
 - (viii) If the Regional Administrator concurs in the Council's recommendation, a final rule shall be published in the FEDERAL REGISTER on or about April 1 of each year, with the exception noted in paragraph (a)(2)(vii) of this section. If the Council fails to submit a recommendation to the Regional Administrator by February 1 that meets the FMP goals and objectives, the Regional Administrator may publish as a proposed rule one of the options reviewed and not rejected by the Council, provided that the option meets the FMP objectives and is consistent with other

applicable law. If, after considering public comment, the Regional Administrator decides to approve the option published as a proposed rule, the action will be published as a final rule in the FEDERAL REGISTER.

(3) **Default OFLs, ABCs, and ACLs.**

- (i) Unless otherwise specified in this paragraph (a)(3), if final specifications are not published in the FEDERAL REGISTER for the start of a fishing year, as outlined in paragraph (a)(4) of this section, specifications for that fishing year shall be set at 75 percent of the previous year's specifications for each NE multispecies stock, including the U.S./Canada shared resources, for the period of time beginning on May 1 and ending on October 31, unless superseded by the final rule implementing the current year's specifications.
- (ii) If the default specifications exceed the Council's recommendations for any stock for the current year, the specifications for that stock shall be reduced to the Council's recommendation through notice consistent with the Administrative Procedure Act.
- (iii) These specifications shall be subdivided among the various sub-components of the fishery consistent with the ABC/ACL distribution adopted for the previous year's specifications.

(4) **Process for setting ABCs and ACLs –**

- (i) **ABC/ACL recommendations.** As described in this paragraph (a)(4), with the exception of stocks managed by the Understanding, the PDT shall develop recommendations for setting an ABC, ACL, and OFL for each NE multispecies stock for each of the next 3 years as part of the biennial review process specified in paragraph (a)(2) of this section. ACLs can also be specified based upon updated information in the annual SAFE report, as described in paragraph (a)(1) of this section, and other available information as part of a specification package, as described in paragraph (a)(6) of this section. For NE multispecies stocks or stock components managed under both the NE Multispecies FMP and the Understanding, the PDT shall develop recommendations for ABCs, ACLs, and OFLs for the pertinent stock or stock components for each of the next 2 years as part of the annual process described in this paragraph (a)(4) and § 648.85(a)(2).
 - (A) **ABC recommendations.** The PDT shall develop ABC recommendations based on the ABC control rule, the fishing mortality rate necessary to rebuild the stock, guidance from the SSC, and any other available information. The PDT recommendations shall be reviewed by the SSC. Guided by terms of reference developed by the Council, the SSC shall either concur with the ABC recommendations provided by the PDT, or provide alternative recommendations for each stock of regulated species or ocean pout and describe the elements of scientific uncertainty used to develop its recommendations. Should the SSC recommend an ABC that differs from that originally recommended by the PDT, the PDT shall revise its ACL recommendations if necessary to be consistent with the ABC recommendations made by the SSC. In addition to consideration of ABCs, the SSC may consider other related issues specified in the terms of reference developed by the Council, including, but not limited to, OFLs, ACLs, and management uncertainty.
 - (B) **ACL recommendations.** The PDT shall develop ACL recommendations based upon ABCs recommended by the SSC and the pertinent recommendations of the Transboundary Management Guidance Committee (TMGC). The ACL recommendations of the PDT shall be specified based upon total catch for each stock (including both landings and discards), if that information is available. The PDT shall describe the steps involved with the

calculation of the recommended ACLs and uncertainties and risks considered when developing these recommendations, including whether different levels of uncertainties were used for different sub-components of the fishery and whether ACLs have been exceeded in recent years. Based upon the ABC recommendations of the SSC and the ACL recommendations of the PDT, the Council shall adopt ACLs that are equal to or lower than the ABC recommended by the SSC to account for management uncertainty in the fishery. In years that the coverage target for the groundfish sector monitoring program specified in § 648.11(l) is set at 100 percent, the management uncertainty buffer defaults to zero for the sector sub-ACL for the allocated regulated species stocks specified at § 648.87(b)(1)(i)(A), unless through an action the New England Fishery Management Council specifies a different management uncertainty buffer for a sector sub-ACL to prevent catches from exceeding an ACL when the coverage target is 100 percent. The need for a management uncertainty buffer for the sector sub-ACL will continue to be evaluated as part of each specification action. The PDT will consider whether the 100-percent monitoring coverage target supports a zero percent buffer, or any other factor has a significant potential to result in catches that could exceed ACLs and will recommend an appropriate management uncertainty buffer if necessary.

- (ii) **Timing.** The PDT recommendations for setting ABCs and ACLs shall be provided to the SSC prior to the September Council meeting, to the extent possible. The Council shall consider the ABC recommendations of the SSC and the ACL recommendations of the PDT (and TMGC) and shall make a decision on those recommendations prior to December 1, to the extent possible. Once the Council has approved its recommended ACLs, they shall be submitted to NMFS prior to December 1, to the extent possible for approval and implementation. If the Council is submitting a management action as part of the biennial adjustment process, the ACLs can be included in that document along with any necessary analysis required by applicable law. After receipt of the Council recommendation for ACLs, either as part of a new management action or as part of a specification package, as described in paragraph (a)(5) of this section, NMFS shall review the Council's decision and, if consistent with applicable law, implement the ACL in a manner consistent with the Administrative Procedure Act.
- (iii) **ABC/ACL distribution.** The ABCs/ACLs adopted by the Council for each regulated species or ocean pout stock pursuant to this paragraph (a)(4) shall be subdivided among the various sub-components of the fishery, as specified in paragraphs (a)(4)(iii)(A) through (H) of this section. For transboundary stocks managed by the Understanding, pursuant to § 648.85(a), the distribution of ABC/ACLs described in paragraphs (a)(4)(iii)(A) through (H) of this section shall be based upon the catch available to U.S. fishermen. The Council may revise its recommendations for the distribution of ABCs and ACLs among these and other sub-components through the process to specify ABCs and ACLs, as described in this paragraph (a)(4).
 - (A) **Regulated species or ocean pout catch by vessels operating only in state waters.** The catch of regulated species or ocean pout that is expected to be harvested by vessels operating only in state waters that have not been issued a Federal NE multispecies permit and are not subject to the regulations specified in this part, as well as the recreational catch of regulated species or ocean pout that occurs in state waters, unless otherwise specified in paragraph (a)(4)(iii)(H)(1)(i) of this section, shall be deducted from the ABC/ACL of each regulated species or ocean pout stock pursuant to the process for specifying ABCs and ACLs, as described in this paragraph (a)(4).

- (B) ***Regulated species or ocean pout catch by other, non-specified fisheries.*** Regulated species or ocean pout catch by other, non-specified fisheries, including, but not limited to, exempted fisheries that occur in Federal waters, fisheries harvesting exempted species specified in § 648.80(b)(3), and recreational fisheries that occur in Federal waters, unless otherwise specified in paragraph (a)(4)(iii)(H)(1)(i) of this section, shall be deducted from the ABC/ACL of each regulated species or ocean pout stock, pursuant to the process to specify ABCs and ACLs described in this paragraph (a)(4), unless otherwise specified in paragraphs (a)(4)(iii)(C) through (G) of this section. The catch of these non-specified sub-components of the ACL shall be monitored using data collected pursuant to this part. If catch from such fisheries exceeds the amount specified in this paragraph (a)(4)(iii)(B), AMs shall be developed to prevent the overall ACL for each stock from being exceeded, pursuant to the framework adjustment process specified in this section.
- (C) ***Yellowtail flounder catch by the Atlantic sea scallop fishery.*** Yellowtail flounder catch in the Atlantic sea scallop fishery, as defined in subpart D of this part, shall be deducted from the ABC/ACL for each yellowtail flounder stock pursuant to the restrictions specified in subpart D of this part and the process to specify ABCs and ACLs, as described in paragraph (a)(4) of this section. Unless otherwise specified in this paragraph (a)(4)(iii)(C), or subpart D of this part, the specific value of the sub-components of the ABC/ACL for each stock of yellowtail flounder distributed to the Atlantic sea scallop fishery shall be specified pursuant to the biennial adjustment process specified in paragraph (a)(2) of this section. The Atlantic sea scallop fishery shall be allocated 40 percent of the GB yellowtail flounder ABC (U.S. share only) in fishing year 2013, and 16 percent in fishing year 2014 and each fishing year thereafter, pursuant to the process for specifying ABCs and ACLs described in this paragraph (a)(4). An ACL based on this ABC shall be determined using the process described in paragraph (a)(4)(i) of this section. Based on information available, NMFS shall project the expected scallop fishery catch of GB and SNE/MA yellowtail flounder for the current fishing year by January 15. If NMFS determines that the scallop fishery will catch less than 90 percent of its GB or SNE/MA yellowtail flounder sub-ACL, the Regional Administrator may reduce the pertinent scallop fishery sub-ACL to the amount projected to be caught, and increase the groundfish fishery sub-ACL by any amount up to the amount reduced from the scallop fishery sub-ACL. The revised GB or SNE/MA yellowtail flounder groundfish fishery sub-ACL shall be distributed to the common pool and sectors based on the process specified in paragraph (a)(4)(iii)(H)(2) of this section.
- (D) ***Haddock catch by the midwater trawl Atlantic herring fishery –***
- (1) ***Sub-ACL values.*** The midwater trawl Atlantic herring fishery will be allocated sub-ACLs equal to 1 percent of the GOM haddock ABC, and 2 percent of the GB haddock ABC (U.S. share only), pursuant to the restrictions in § 648.86(a)(3). The sub-ACLs will be set using the process for specifying ABCs and ACLs described in paragraph (a)(4) of this section. For the purposes of these sub-ACLs, the midwater trawl Atlantic herring fishery includes vessels issued a Federal Atlantic herring permit and fishing with midwater trawl gear in Management Areas 1A, 1B, and/or 3, as defined in § 648.200(f)(1) and (3).
- (2) ***GB haddock sub-ACL Review.*** Following an assessment of the total GB haddock stock, the Groundfish PDT will conduct a review of the sub-ACL and recommend to the Groundfish Committee and Council a sub-ACL for the midwater trawl Atlantic

herring fishery of 1 and up to 2 percent of the GB haddock U.S. ABC. The sub-ACL review should consider factors including, but not limited to, groundfish fishery catch performance, expected groundfish fishery utilization of the GB haddock ACL, status of the GB haddock resource, recruitment, incoming year-class strength, and evaluation of the coefficient of variation of the GB haddock incidental catch estimates for the midwater trawl Atlantic herring fishery.

- (E) ***Windowpane flounder catch by the Atlantic sea scallop fishery.*** The Atlantic sea scallop fishery, as defined in subpart D of this part, will be allocated sub-ACLs equaling 21 percent of the northern windowpane flounder ABC and 36 percent of the southern windowpane flounder ABC. The sub-ACLs will be set using the process for specifying ABCs and ACLs described in paragraph (a)(4) of this section.
- (F) ***Southern windowpane flounder catch by exempted fisheries.*** Southern windowpane flounder catch by other, non-specified fisheries, including, but not limited to, exempted fisheries that occur in Federal waters and fisheries harvesting exempted species specified in § 648.80(b)(3), shall be deducted from the ABC/ACL for southern windowpane flounder pursuant to the process to specify ABCs and ACLs, as described in this paragraph (a)(4). The specific value of the sub-components of the ABC/ACL for southern windowpane flounder distributed to these other fisheries shall be specified pursuant to the biennial adjustment process specified in paragraph (a)(2) of this section.
- (G) ***GB yellowtail flounder catch by small mesh fisheries –***
 - (1) For the purposes of this paragraph, the term “small-mesh fisheries” is defined as vessels fishing with bottom tending mobile gear with a codend mesh size of less than 5 in (12.7 cm) in other, non-specified sub-components of the fishery, including, but not limited to, exempted fisheries that occur in Federal waters and fisheries harvesting exempted species specified in § 648.80(b)(3).
 - (2) Small-mesh fisheries allocation. GB yellowtail flounder catch by the small-mesh fisheries, as defined in paragraph (a)(4)(iii)(G)(1) of this section, shall be deducted from the ABC/ACL for GB yellowtail flounder pursuant to the process to specify ABCs and ACLs, as described in this paragraph (a)(4). This small mesh fishery shall be allocated 2 percent of the GB yellowtail flounder ABC (U.S. share only) in fishing year 2013 and each fishing year after, pursuant to the process for specifying ABCs and ACLs described in this paragraph (a)(4). An ACL based on this ABC shall be determined using the process described in paragraph (a)(4)(i) of this section.
- (H) ***Regulated species or ocean pout catch by the NE multispecies commercial and recreational fisheries.*** Unless otherwise specified in the ACL recommendations developed pursuant to paragraph (a)(4)(i) of this section, after all of the deductions and considerations specified in paragraphs (a)(4)(iii)(A) through (G) and (a)(4)(iii)(H)(1) of this section, the remaining ABC/ACL for each regulated species or ocean pout stock shall be allocated to the NE multispecies commercial fishery, pursuant to paragraph (a)(4)(iii)(H)(2) of this section.
 - (1) ***Recreational allocation.*** Unless otherwise specified in paragraph (a)(5) of this section, recreational catches shall be compared to the ACLs allocated pursuant to this paragraph (a)(4)(iii)(H)(1) for the purposes of determining whether adjustments to recreational measures are necessary, pursuant to the recreational fishery AMs specified in § 648.89(f).

- (i) ***Stocks allocated.*** Unless otherwise specified in this paragraph (a)(4)(iii)(H)(1), the ABCs/ACLs for GOM cod and GOM haddock set pursuant to paragraph (a)(4) of this section shall be divided between commercial and recreational components, based upon the average proportional catch of each component for each stock during fishing years 2001 through 2006.
 - (ii) ***Process for determining if a recreational allocation is necessary.*** A recreational allocation may not be made if it is determined that, based upon available information, the ACLs for these stocks are not being fully harvested by the NE multispecies fishery, or if the recreational harvest, after accounting for state waters catch pursuant to paragraph (a)(4)(iii)(A) of this section, is less than 5 percent of the overall catch for a particular stock of regulated species or ocean pout.
 - (2) ***Commercial allocation.*** Unless otherwise specified in this paragraph (a)(4)(iii)(H)(2), the ABC/ACL for regulated species or ocean pout stocks available to the commercial NE multispecies fishery, after consideration of the recreational allocation pursuant to paragraph (a)(4)(iii)(H)(1) of this section, shall be divided between vessels operating under approved sector operations plans, as described at § 648.87(c), and vessels operating under the provisions of the common pool, as defined in this part, based upon the cumulative PSCs of vessels participating in sectors calculated pursuant to § 648.87(b)(1)(i)(E). The ABC/ACL of each regulated species or ocean pout stocks not allocated to sectors pursuant to § 648.87(b)(1)(i)(E) (i.e., Atlantic halibut, ocean pout, windowpane flounder, and Atlantic wolffish) that is available to the commercial NE multispecies fishery shall be allocated entirely to the common pool, and catch from sector and common pool vessels shall be attributed to this allocation. Unless otherwise specified in paragraph (a)(5) of this section, regulated species or ocean pout catch by common pool and sector vessels shall be deducted from the sub-ACL/ACE allocated pursuant to this paragraph (a)(4)(iii)(H)(2) for the purposes of determining whether adjustments to common pool measures are necessary, pursuant to the common pool AMs specified in § 648.82(n), or whether sector ACE overages must be deducted, pursuant to § 648.87(b)(1)(iii).
 - (3) ***Revisions to commercial and recreational allocations.*** Distribution of the ACL for each stock available to the NE multispecies fishery between and among commercial and recreational components of the fishery may be implemented through a framework adjustment pursuant to this section. Any changes to the distribution of ACLs to the NE multispecies fishery shall not affect the implementation of AMs based upon the distribution in effect at the time of the overage that triggered the AM.
- (iv) ***ACL monitoring —***
- (A) ***Landings.*** For the purposes of monitoring the catch of regulated species or ocean pout towards the harvest of ACLs and other, non-specified sub-components of the ACLs specified in paragraph (a)(4) of this section, the reporting requirements specified in this part, including dealer reports, VTRs, VMS catch reports, sector catch reports, and other available information shall be used to identify and apportion regulated species or ocean pout landings by stock area.

- (B) **Discards.** Unless otherwise specified in this paragraph (a)(4)(iv)(B), regulated species or ocean pout discards shall be monitored through the use of VTRs, observer data, VMS catch reports, and other available information, as specified in this part. Regulated species or ocean pout discards by vessels on a sector trip shall be monitored pursuant to § 648.87(b)(1)(v)(A).
- (v) **Adjustments to ACLs.** The Council may elect to revise the ACL for any regulated species or ocean pout stock in the second fishing year following a biennial review to account for any overages of an ACL in year one that may result in overfishing for a particular stock. Any adjustments to the ACLs in year two will be implemented pursuant to the process to specify ABCs and ACLs, as described in paragraph (a)(4) of this section.
- (5) **AMs.** Except as specified in paragraphs (a)(4)(iii)(A) through (G) of this section, if any of the ACLs specified in paragraph (a)(4) of this section are exceeded based upon available catch information, the AMs specified in paragraphs (a)(5)(i) and (ii) of this section shall take effect in the following fishing year, or as soon as practicable, thereafter, once catch data for all affected fisheries are available, as applicable.
- (i) **AMs for the NE multispecies commercial and recreational fisheries.** If the catch of regulated species or ocean pout by a sub-component of the NE multispecies fishery (i.e., common pool vessels, sector vessels, or private recreational and charter/party vessels) exceeds the amount allocated to each sub-component, as specified in paragraph (a)(4)(iii)(H) of this section, then the applicable AM for that sub-component of the fishery shall take effect, pursuant to paragraphs (a)(5)(i)(A) through (C) of this section. In determining the applicability of AMs specified for a sub-component of the NE multispecies fishery in paragraphs (a)(5)(i)(A) through (C) of this section, the Regional Administrator shall consider available information regarding the catch of regulated species and ocean pout by each sub-component of the NE multispecies fishery, plus each sub-component's share of any overage of the overall ACL for a particular stock caused by excessive catch by vessels outside of the FMP, exempted fisheries, or the Atlantic sea scallop fishery, as specified in this paragraph (a)(5), as appropriate.
- (A) **Excessive catch by common pool vessels.** If the catch of regulated species and ocean pout by common pool vessels exceeds the amount of the ACL specified for common pool vessels pursuant to paragraph (a)(4)(iii)(H)(2) of this section, then the AMs described in § 648.82(n) shall take effect. Pursuant to the distribution of ABCs/ACLs specified in paragraph (a)(4)(iii)(H)(2) of this section, for the purposes of this paragraph (a)(5)(i)(A), the catch of each regulated species or ocean pout stock not allocated to sectors pursuant to § 648.87(b)(1)(i)(E) (i.e., Atlantic halibut, ocean pout, windowpane flounder, and Atlantic wolffish) during fishing years 2010 and 2011 shall be added to the catch of such stocks by common pool vessels to determine whether the differential DAS counting AM described in § 648.82(n)(1) shall take effect. If such catch does not exceed the portion of the ACL specified for common pool vessels pursuant to paragraph (a)(4)(iii)(H)(2) of this section, then no AMs shall take effect for common pool vessels.
- (B) **Excessive catch by sector vessels.** If the catch of regulated species and ocean pout by sector vessels exceeds the amount of the ACL specified for sector vessels pursuant to paragraph (a)(4)(iii)(H)(2) of this section, then the AMs described in § 648.87(b)(1)(iii) shall take effect. For the purposes of this paragraph (a)(5)(i)(B), the catch of regulated species and ocean pout for each sector approved pursuant to § 648.87 shall be based

upon the catch of vessels participating in each approved sector. If such catch does not exceed the portion of the ACL specified for an individual sector pursuant to paragraph (a)(4)(iii)(H)(2) of this section, then no AMs shall take effect for that sector.

- (C) **Excessive catch by the NE multispecies recreational fishery.** If the catch of regulated species and ocean pout by private recreational and charter/party vessels exceeds the amount of the ACL specified for the recreational fishery pursuant to paragraph (a)(4)(iii)(H)(1) of this section, then the AMs described in § 648.89(f) shall take effect. If such catch does not exceed the portion of the ACL specified for the recreational fishery pursuant to paragraph (a)(4)(iii)(H)(1) of this section, then no AMs shall take effect for the recreational fishery.
- (D) **AMs for both stocks of windowpane flounder, ocean pout, Atlantic halibut, and Atlantic wolffish.** At the end of each fishing year, NMFS shall determine if the overall ACL for northern windowpane flounder, southern windowpane flounder, ocean pout, Atlantic halibut, or Atlantic wolffish was exceeded. If the overall ACL for any of these stocks is exceeded, NMFS shall implement the appropriate AM, as specified in paragraphs (a)(5)(i)(D) through (H) of this section, in a subsequent fishing year, consistent with the APA. If reliable information is available, the AM shall be implemented in the fishing year immediately following the fishing year in which the overage occurred. Otherwise, the AM shall be implemented in the second fishing year after the fishing year in which the overage occurred. For example, if NMFS determined before the start of fishing year 2013 that the overall ACL for northern windowpane flounder was exceeded by the groundfish fishery in fishing year 2012, the applicable AM would be implemented for fishing year 2013. If NMFS determined after the start of fishing year 2013 that the overall ACL for northern windowpane flounder was exceeded in fishing year 2012, the applicable AM would be implemented for fishing year 2014. If updated catch information becomes available subsequent to the implementation of an AM that indicates that an ACL was not exceeded, the AM will be rescinded, consistent with the Administrative Procedure Act.
- (E) **Windowpane flounder.** Unless otherwise specified in paragraphs (a)(5)(i)(E)(5) and (6) of this section, if NMFS determines the total catch exceeds the overall ACL for either stock of windowpane flounder, as described in this paragraph (a)(5)(i)(E), by any amount greater than the management uncertainty buffer, up to 20 percent greater than the overall ACL, the applicable small AM area for the stock shall be implemented, as specified in paragraph (a)(5)(i)(E) of this section, consistent with the Administrative Procedure Act. If the overall ACL is exceeded by more than 20 percent, the applicable large AM area(s) for the stock shall be implemented, as specified in this paragraph (a)(5)(i)(E), consistent with the Administrative Procedure Act. Vessels fishing with trawl gear in these areas may only use a haddock separator trawl, as specified in § 648.85(a)(3)(iii)(A); a Ruhle trawl, as specified in § 648.85(b)(6)(iv)(J)(3); a rope separator trawl, as specified in § 648.84(e); or any other gear approved consistent with the process defined in § 648.85(b)(6).
- (1) **Multispecies Fishery.** If an overage of the overall ACL for southern windowpane flounder is a result of an overage of the sub-ACL allocated to the multispecies fishery pursuant to paragraph (a)(4)(iii)(H)(2) of this section, the applicable AM area(s) shall be in effect year-round for any limited access NE multispecies permitted vessel fishing on a NE multispecies DAS or sector trip.

- (2) **Exempted Fisheries.** If an overage of the overall ACL for southern windowpane flounder is a result of an overage of the sub-ACL allocated to exempted fisheries pursuant to paragraph (a)(4)(iii)(F) of this section, the applicable AM area(s) shall be in effect for any trawl vessel fishing with a codend mesh size of greater than or equal to 5 inches (12.7 cm) in other, non-specified sub-components of the fishery, including, but not limited to, exempted fisheries that occur in Federal waters and fisheries harvesting exempted species specified in § 648.80(b)(3). If triggered, the Southern Windowpane Flounder Small AM Area will be implemented from September 1 through April 30; the Southern Windowpane Flounder Large AM Areas 2 and 3 will be implemented year-round.
- (3) **Combined Overage.** If an overage of the overall ACL for southern windowpane flounder is a result of overages of both the multispecies fishery and exempted fishery sub-ACLs, the applicable AM area(s) shall be in effect for both the multispecies fishery and exempted fisheries as described in this paragraph (a)(5)(i)(E). If a sub-ACL for either stock of windowpane flounder is allocated to another fishery, consistent with the process specified at paragraph (a)(4) of this section, and there are AMs for that fishery, the multispecies fishery AM shall only be implemented if the sub-ACL allocated to the multispecies fishery is exceeded (*i.e.*, the sector and common pool catch for a particular stock, including the common pool's share of any overage of the overall ACL caused by excessive catch by other sub-components of the fishery pursuant to paragraph (a)(5) of this section exceeds the common pool sub-ACL) and the overall ACL is also exceeded.
- (4) **Windowpane AM Areas.** The AM areas defined below are bounded by the following coordinates, connected in the order listed by rhumb lines, unless otherwise noted.

Point	N latitude	W longitude
NORTHERN WINDOWPANE FLOUNDER AND OCEAN POUT SMALL AM AREA		
1	41°10'	67°40'
2	41°10'	67°20'
3	41°00'	67°20'
4	41°00'	67°00'
5	40°50'	67°00'
6	40°50'	67°40'
1	41°10'	67°40'

¹ The southernmost coastline of Long Island, NY, at 73°30' W longitude.

² The easternmost coastline of NJ at 40°20' N latitude, then northward along the NJ coastline to Point 6.

³ The northernmost coastline of NJ at 73°58.5' W longitude.

⁴ The southernmost coastline of Long Island, NY, at 73°58.5' W longitude.

⁵ The approximate location of the southwest corner of the Rockaway Peninsula, Queens, NY, then eastward along the southernmost coastline of Long Island, NY (excluding South Oyster Bay), back to Point 1.

Point	N latitude	W longitude
NORTHERN WINDOWPANE FLOUNDER AND OCEAN POUT LARGE AM AREA		
1	42°10'	67°40'
2	42°10'	67°20'
3	41°00'	67°20'
4	41°00'	67°00'
5	40°50'	67°00'
6	40°50'	67°40'
1	42°10'	67°40'
SOUTHERN WINDOWPANE FLOUNDER AND OCEAN POUT SMALL AM AREA		
1	41°10'	71°30'
2	41°10'	71°20'
3	40°50'	71°20'
4	40°50'	71°30'
1	41°10'	71°30'
SOUTHERN WINDOWPANE FLOUNDER AND OCEAN POUT LARGE AM AREA 1		
1	41°10'	71°50'
2	41°10'	71°10'
3	41°00'	71°10'
4	41°00'	71°20'
5	40°50'	71°20'
6	40°50'	71°50'
1	41°10'	71°50'
SOUTHERN WINDOWPANE FLOUNDER AND OCEAN POUT LARGE AM AREA 2		
1	(¹)	73°30'
2	40°30'	73°30'
3	40°30'	73°50'
4	40°20'	73°50'
5	40°20'	(²)
6	(³)	73°58.5'
7	(⁴)	73°58.5'
8	⁵ 40°32.6'	⁵ 73°56.4'

¹ The southernmost coastline of Long Island, NY, at 73°30' W longitude.

² The easternmost coastline of NJ at 40°20' N latitude, then northward along the NJ coastline to Point 6.

³ The northernmost coastline of NJ at 73°58.5' W longitude.

⁴ The southernmost coastline of Long Island, NY, at 73°58.5' W longitude.

⁵ The approximate location of the southwest corner of the Rockaway Peninsula, Queens, NY, then eastward along the southernmost coastline of Long Island, NY (excluding South Oyster Bay), back to Point 1.

Point	N latitude	W longitude
1	(¹)	73°30'
SOUTHERN WINDOWPANE FLOUNDER LARGE AM AREA 3		
1	41°10'	71°30'
2	41°10'	71°10'
3	41°00'	71°10'
4	41°00'	71°20'
5	40°50'	71°20'
6	40°50'	71°30'
1	41°10'	71°30'

¹ The southernmost coastline of Long Island, NY, at 73°30' W longitude.

² The easternmost coastline of NJ at 40°20' N latitude, then northward along the NJ coastline to Point 6.

³ The northernmost coastline of NJ at 73°58.5' W longitude.

⁴ The southernmost coastline of Long Island, NY, at 73°58.5' W longitude.

⁵ The approximate location of the southwest corner of the Rockaway Peninsula, Queens, NY, then eastward along the southernmost coastline of Long Island, NY (excluding South Oyster Bay), back to Point 1.

(5) **Reducing the size of an AM.** If the overall northern or southern windowpane flounder ACL is exceeded by more than 20 percent and NMFS determines that the stock is rebuilt, and the biomass criterion, as defined by the Council, is greater than the most recent fishing year's catch, then only the small AM may be implemented as described in this paragraph (a)(5)(i)(E), consistent with the Administrative Procedure Act. This provision applies to a limited access NE multispecies permitted vessel fishing on a NE multispecies DAS or sector trip, and to all vessels fishing with trawl gear with a codend mesh size equal to or greater than 5 inches (12.7 cm) in other, non-specified sub-components of the fishery, including, but not limited to, exempted fisheries that occur in Federal waters and fisheries harvesting exempted species specified in § 648.80(b)(3).

(6) **Reducing the duration of an AM.** If the northern or southern windowpane flounder AM is implemented in the third fishing year following the year of an overage, as described in paragraph (a)(5)(i)(D) of this section, and NMFS subsequently determines that the applicable windowpane flounder ACL was not exceeded by any amount the year immediately after which the overage occurred (i.e., the second year), on or after September 1 the AM can be removed once year-end data are complete. This reduced duration does not apply if NMFS determines during year 3 that a year 3 overage of the applicable windowpane flounder ACL has occurred. This provision applies to a limited access NE multispecies permitted vessel fishing on a NE multispecies DAS or sector trip, and to all vessels fishing with trawl gear with a codend mesh size equal to

or greater than 5 inches (12.7 cm) in other, non-specified sub-components of the fishery, including, but not limited to, exempted fisheries that occur in Federal waters and fisheries harvesting exempted species specified in § 648.80(b)(3).

(F) **Atlantic halibut.** If NMFS determines, as described in paragraph (a)(5)(i)(D) of this section, that the overall ACL for Atlantic halibut is exceeded by catch from U.S. Federal and state fisheries by any amount greater than the management uncertainty buffer and, after accounting for the amount of landings of Atlantic halibut from Canadian fisheries, as appropriate, that the total ABC for Atlantic halibut has also been exceeded, the applicable AM shall be implemented as described in paragraph (a)(5)(i)(F)(1) of this section. If a sub-ACL for Atlantic halibut is allocated to another fishery, consistent with the process specified at § 648.90(a)(4), and there are AMs for that fishery, the multispecies fishery AM shall only be implemented if the sub-ACL allocated to the multispecies fishery is exceeded (*i.e.*, the sector and common pool catch for a particular stock, including the common pool's share of any overage of the overall ACL caused by excessive catch by other sub-components of the fishery pursuant to § 648.90(a)(5), exceeds the common pool sub-ACL) and the overall ACL is also exceeded.

(1) **Description of AM.** When the AM is implemented, any vessel issued a Federal permit for any fishery management plan may not fish for, possess, or land Atlantic halibut for the fishing year in which the AM is implemented, as specified in paragraph (a)(5)(i)(F) of this section, unless otherwise specified in paragraph (a)(5)(i)(F)(2) of this section. Additionally, the applicable AM areas, as defined in paragraph (a)(5)(i)(F)(4) of this section, shall be implemented as follows: Any vessel issued a limited access NE multispecies permit and fishing with trawl gear in the Atlantic Halibut Trawl Gear AM Area may only use a haddock separator trawl, as specified in § 648.85(a)(3)(iii)(A); a Ruhle trawl, as specified in § 648.85(b)(6)(iv)(J)(3); a rope separator trawl, as specified in § 648.84(e); or any other gear approved consistent with the process defined in § 648.85(b)(6), except that selective trawl gear is not required in the portion of the Trawl Gear AM Area between 41 degrees 40 minutes and 42 degrees from April 1 through July 31. When in effect, a limited access NE multispecies permitted vessel with gillnet gear may not fish or be in the Atlantic Halibut Fixed Gear AM Area from March 1 through October 31, unless transiting with its gear stowed and not available for immediate use as defined in § 648.2, or such gear was approved consistent with the process defined in § 648.85(b)(6).

(2) **Vessels exempt from the no possession AM.** Vessels issued only a charter/party permit, and/or an Atlantic highly migratory species angling permit, and/or an Atlantic highly migratory species charter/headboat permit are exempt from the no possession AM. This exemption does not apply to any vessel that is issued any other permit that is subject to the AM. For example, a vessel issued a Northeast multispecies charter/party permit and a bluefish charter/party permit would be exempt from the no possession AM, but a vessel issued a Northeast multispecies charter/party permit and a commercial bluefish permit would not be exempt from the no possession AM.

(3) **Review of the AM.** If the overall ACL is exceeded by more than 20 percent, the Council shall revisit the AM in a future action.

- (4) ***Atlantic halibut AM area.*** The AM areas defined below are bounded by the following coordinates, connected in the order listed by rhumb lines, unless otherwise noted.

TABLE 1 TO PARAGRAPH (a)(5)(i)(F)(4)

Atlantic halibut trawl gear AM area		
Points	N latitude	W longitude
1	42°00'	69°20'
2	42°00'	68°20'
3	41°30'	68°20'
4	41°30'	69°20'

TABLE 2 TO PARAGRAPH (a)(5)(i)(F)(4)

Atlantic halibut gillnet gear AM area		
Points	N latitude	W longitude
1	43°10'	69°40'
2	43°10'	69°30'
3	43°00'	69°30'
4	43°00'	69°40'

- (G) ***Atlantic wolffish.*** If NMFS determines the overall ACL for Atlantic wolffish is exceeded, as described in this paragraph (a)(5)(i)(G), by any amount greater than the management uncertainty buffer, the applicable AM areas shall be implemented, as specified in this paragraph (a)(5)(i)(G). If the overall ACL is exceeded by more than 20 percent, the applicable AM area(s) for the stock shall be implemented, as specified in this paragraph (a)(5)(i)(G), and the Council shall revisit the AM in a future action. The AM areas defined below are bounded by the following coordinates, connected in the order listed by rhumb lines, unless otherwise noted. Any vessel issued a limited access NE multispecies permit and fishing with trawl gear in the Atlantic Wolffish Trawl Gear AM Area may only use a haddock separator trawl, as specified in § 648.85(a)(3)(iii)(A); a Ruhle trawl, as specified in § 648.85(b)(6)(iv)(J)(3); a rope separator trawl, as specified in § 648.84(e); or any other gear approved consistent with the process defined in § 648.85(b)(6). When in effect, a limited access NE multispecies permitted vessel with gillnet or longline gear may not fish or be in the Atlantic Wolffish Fixed Gear AM Areas, unless transiting with its gear stowed and not available for immediate use as defined in § 648.2, or such gear was approved consistent with the process defined in § 648.85(b)(6). If a sub-ACL for Atlantic wolffish is allocated to another fishery, consistent with the process specified at § 648.90(a)(4), and

AMs are developed for that fishery, the multispecies fishery AM shall only be implemented if the sub-ACL allocated to the multispecies fishery is exceeded (*i.e.*, the sector and common pool catch for a particular stock, including the common pool's share of any overage of the overall ACL caused by excessive catch by other sub-components of the fishery pursuant to § 648.90(a)(5), exceeds the common pool sub-ACL) and the overall ACL is also exceeded.

ATLANTIC WOLFFISH TRAWL GEAR AM AREA

Point	N latitude	W longitude
1	42°30'	70°30'
2	42°30'	70°15'
3	42°15'	70°15'
4	42°15'	70°10'
5	42°10'	70°10'
6	42°10'	70°20'
7	42°20'	70°20'
8	42°20'	70°30'

ATLANTIC WOLFFISH FIXED GEAR AM AREA 1

Point	N latitude	W longitude
1	41°40'	69°40'
2	41°40'	69°30'
3	41°30'	69°30'
4	41°30'	69°40'

ATLANTIC WOLFFISH FIXED GEAR AM AREA 2

Point	N latitude	W longitude
1	42°30'	70°20'
2	42°30'	70°15'
3	42°20'	70°15'

Point	N latitude	W longitude
4	42°20'	70°20'

(H) ***Ocean pout.*** Unless otherwise specified in paragraphs (a)(5)(i)(E)(5) and (6) of this section, if NMFS determines the total catch exceeds the overall ACL for ocean pout, as described in paragraph (a)(5)(i)(E) of this section, by any amount greater than the management uncertainty buffer up to 20 percent greater than the overall ACL, the applicable small AM area for the stock shall be implemented, as specified in paragraph (a)(5)(i)(E) of this section, consistent with the Administrative Procedure Act. If the overall ACL is exceeded by more than 20 percent, large AM area(s) for the stock shall be implemented, as specified in paragraph (a)(5)(i)(E) of this section, consistent with the Administrative Procedure Act. The AM areas for ocean pout are defined in paragraph (a)(5)(i)(E)(4) of this section, connected in the order listed by rhumb lines, unless otherwise noted. Vessels fishing with trawl gear in these areas may only use a haddock separator trawl, as specified in § 648.85(a)(3)(iii)(A); a Ruhle trawl, as specified in § 648.85(b)(6)(iv)(J)(3); a rope separator trawl, as specified in § 648.84(e); or any other gear approved consistent with the process defined in § 648.85(b)(6).

(ii) ***AMs due to excessive catch of regulated species or ocean pout by state and other, non-specified fisheries.*** At the end of the NE multispecies fishing year, NMFS will evaluate whether the catch of any stock of regulated species or ocean pout by vessels operating only in state waters or in other, non-specified fisheries, as defined in paragraphs (a)(4)(iii)(A) and (B) of this section, exceeds the sub-component of the ACL for that stock.

(A) ***AMs if the overall ACL for a regulated species or ocean pout stock is exceeded.*** If the catch of any stock of regulated species or ocean pout by vessels operating only in state waters or in other, non-specified fisheries exceeds the sub-component of the ACL for that stock, and the overall ACL for that stock is exceeded, then the amount of the overage of the overall ACL for that stock attributed to catch from vessels operating only in state waters or in other, non-specified fisheries, as defined in paragraphs (a)(4)(iii)(A) and (B) of this section, shall be distributed among components of the NE multispecies fishery based upon each component's share of that stock's ACL available to the NE multispecies fishery pursuant to paragraph (a)(4)(iii)(H) of this section. Each component's share of the ACL overage for a particular stock would be then added to the catch of that stock by each component of the NE multispecies fishery. If the resulting sum of catch of that stock for each component of the fishery exceeds that individual component's share of that stock's ACL specified pursuant to paragraph (a)(4)(iii)(H) of this section, then the AMs specified in paragraphs (a)(5)(i)(A) through (C) of this section shall take effect, as applicable, unless otherwise specified in paragraph (a)(5)(ii)(C) of this section.

(B) ***AMs if the overall ACL for a regulated species or ocean pout stock is not exceeded.*** If the catch of any stock of regulated species or ocean pout by vessels operating only in state waters or in other, non-specified fisheries, as defined in paragraphs (a)(4)(iii)(A) and (B) of this section, exceeds the sub-component of the ACL for that stock, but the overall ACL for

that stock is not exceeded, even after consideration of the catch of that stock by other sub-components of the fishery, then the AMs specified in this paragraph (a)(5)(ii) shall not take effect.

- (C) **AMs for GB cod due to excessive catch by non-allocated fisheries.** For any overages of the GB cod ACL in the 2022-2024 fishing years, the amount of overage of the overall ACL for GB cod attributed to catch from vessels operating only in state waters or in other, non-specified fisheries, as defined in paragraphs (a)(4)(iii)(A) and (B) of this section, would be reduced by any underage of the GB cod ACL in the fishing year following the overage, in order to determine the total amount that must be added to the catch by components of the NE multispecies fishery, as specified in paragraph (a)(5)(i)(A) of this section. If the full ACL of GB cod is caught or exceeded in the fishing year following an overage, no reduction to this amount would be made. For example, if in 2023 NMFS determines that 100 mt of GB cod catch by vessels operating only in state waters or in other, non-specified fisheries in fishing year 2022 has contributed to an ACL overage, NMFS would implement the AMs specified in paragraph (a)(5)(ii)(A) of this section at the beginning of fishing year 2024. If 2023 fishing year-end data showed that total catch of GB cod in fishing year 2023 was 25 mt below the 2023 ACL, NMFS would reduce the 100-mt overage amount by that 25-mt amount (down to 75 mt) in an in-season adjustment to the 2024 sub-ACLs, as specified in paragraph (a)(5)(i)(A) of this section.
- (iii) **AMs if the incidental catch cap for the Atlantic herring fishery is exceeded.** At the end of the NE multispecies fishing year, NMFS shall evaluate Atlantic herring fishery catch using VTR, VMS, IVR, observer data, and any other available information to determine whether a haddock incidental catch cap has been exceeded based upon the cumulative catch of vessels issued an Atlantic herring permit and fishing with midwater trawl gear in Management Areas 1A, 1B, and/or 3. If the catch of haddock by all vessels issued an Atlantic herring permit and fishing with midwater trawl gear in Management Areas 1A, 1B, and/or 3, exceeds the amount of the incidental catch cap specified in § 648.90(a)(4)(iii)(D) of this section, then the appropriate incidental catch cap shall be reduced by the overage on a pound-for-pound basis during the following fishing year. Any overage reductions shall be announced by the Regional Administrator in the FEDERAL REGISTER, accordance with the Administrative Procedure Act, prior to the start of the next NE multispecies fishing year after which the overage occurred, if possible, or as soon as possible thereafter if the overage is not determined until after the end of the NE multispecies fishing year in which the overage occurred.
- (iv) **AMs if the sub-ACL for the Atlantic sea scallop fishery is exceeded.** At the end of the scallop fishing year, NMFS will evaluate whether Atlantic sea scallop fishery catch exceeded the sub-ACLs for any groundfish stocks allocated to the scallop fishery. On January 15, or when information is available to make an accurate projection, NMFS will also determine whether total catch exceeded the overall ACL for each stock allocated to the scallop fishery. When evaluating whether total catch exceeded the overall ACL, NMFS will add the maximum carryover available to sectors, as specified at § 648.87(b)(1)(i)(C), to the estimate of total catch for the pertinent stock.
- (A) **Threshold for implementing the Atlantic sea scallop fishery AMs.** If scallop fishery catch exceeds the scallop fishery sub-ACLs for any groundfish stocks in paragraph (a)(4) of this section by 50 percent or more, or if scallop fishery catch exceeds the scallop fishery sub-

ACL by any amount and total catch exceeds the overall ACL for a given stock, then the applicable scallop fishery AM will take effect, as specified in § 648.64 of the Atlantic sea scallop regulations.

- (B) **2024 and 2025 fishing year threshold for implementing the Atlantic sea scallop fishery AM for GB yellowtail flounder.** For the 2024 and 2025 fishing years, if scallop fishery catch exceeds the GB yellowtail flounder sub-ACL specified in paragraph (a)(4) of this section, and total catch exceeds the overall ACL for that stock, then the applicable scallop fishery AM will take effect, as specified in § 648.64 of the Atlantic sea scallop regulations. For the 2026 fishing year and onward, the threshold for implementing scallop fishery AMs for GB yellowtail flounder will return to that listed in paragraph (a)(5)(iv)(A) of this section.
- (v) **AM if the small-mesh fisheries GB yellowtail flounder sub-ACL is exceeded.** If NMFS determines that the sub-ACL of GB yellowtail flounder allocated to the small-mesh fisheries, pursuant to paragraph (a)(4)(iii)(G) of this section, is exceeded, NMFS shall implement the AM specified in this paragraph consistent with the Administrative Procedures Act. The AM requires that small-mesh fisheries vessels, as defined in paragraph (a)(4)(iii)(G)(1) of this section, use one of the following approved selective trawl gear in the GB yellowtail flounder stock area, as defined at § 648.85(b)(6)(v)(H): A haddock separator trawl, as specified in § 648.85(a)(3)(iii)(A); a Ruhle trawl, as specified in § 648.85(b)(6)(iv)(J)(3); a rope separator trawl, as specified in § 648.84(e); a large-mesh belly panel trawl, as specified in § 648.84(f); or any other gear approved consistent with the process defined in § 648.85(b)(6). If reliable information is available, the AM shall be implemented in the fishing year immediately following the year in which the overage occurred only if there is sufficient time to do so in a manner consistent with the Administrative Procedure Act. Otherwise, the AM shall be implemented in the second fishing year after the fishing year in which the overage occurred. For example, if NMFS determined after the start of Year 2 that the small-mesh fisheries sub-ACL for GB yellowtail flounder was exceeded in Year 1, the applicable AM would be implemented at the start of Year 3. If updated catch information becomes available subsequent to the implementation of an AM that indicates that an overage of the small-mesh fisheries sub-ACL did not occur, NMFS shall rescind the AM, consistent with the Administrative Procedure Act.

(6) **Specifications process –**

- (i) **PDT recommendations.** Unless otherwise developed pursuant to the biennial review process specified in paragraph (a)(2) of this section, the PDT shall develop recommendations for setting ACLs for each regulated species or ocean pout, including ACLs for stocks managed by the Understanding; revising rebuilding programs and associated management measures; or modifying AMs for consideration by the Council's Groundfish Oversight Committee based upon the SAFE report prepared pursuant to paragraph (a)(1) of this section. If the Council determines, based on information provided by the PDT or other stock-related information, that the ACLs should be adjusted between biennial reviews, it can do so through the same process outlined in this section during the interim year.
- (ii) **Guidelines.** As the basis for its recommendations under paragraph (a)(5)(i) of this section, the PDT shall review available data pertaining to: Commercial and recreational catch data; current estimates of fishing mortality; discards; stock status; recent estimates of recruitment; virtual population analysis results and other estimates of stock size; sea sampling and trawl survey data or, if sea sampling data are unavailable, length frequency information from trawl surveys; impact of other fisheries on herring mortality; and any other relevant information.

- (iii) **Groundfish Oversight Committee recommendations.** Based on the PDT's recommendations and any public comment received, the Groundfish Oversight Committee shall recommend to the Council appropriate specifications a period of at least 1 year. The Council shall review these recommendations and, after considering public comment, shall recommend appropriate specifications to NMFS. NMFS shall review the recommendations and publish proposed specifications in a manner consistent with the Administrative Procedure Act. If the proposed specifications differ from those recommended by the Council, the reasons for any differences shall be clearly stated.
- (iv) **Analysis.** Any specifications package developed pursuant to this paragraph (a)(5) shall be supported by the appropriate NEPA analysis, which shall be made available for public comment.

(b) **Small-mesh multispecies –**

- (1) **Three-year specifications process, annual review, and specifications package.** The Council shall specify on at least a 3-year basis the OFL, ABC, ACLs, and TALs for each small-mesh multispecies stock in accordance with the following process.
 - (i) At least every 3 years, based on the annual review, described below in paragraph (b)(3) of this section, and/or the specifications package, described in paragraph (b)(4) of this section, recommendations for ABC from the SSC, and any other relevant information, the Whiting PDT shall recommend to the Whiting Oversight Committee and Council specifications including the OFL, ABC, ACL, and TAL for each small-mesh multispecies stock for a period of at least 3 years. The Whiting PDT and the Council shall follow the process in paragraph (b)(2) of this section for setting these specifications.
 - (ii) The Whiting PDT, after reviewing the available information on the status of the stock and the fishery, may recommend to the Council any measures necessary to assure that the specifications will not be exceeded; changes to the SBRM, including the CV-based performance standard, the means by which discard data are collected/obtained, fishery stratification, the process for prioritizing observer sea-day allocations, reports, and/or industry-funded observers or observer set aside programs; as well as changes to the appropriate specifications.
 - (iii) Taking into account the annual review and/or specifications package described in paragraphs (b)(2) and (b)(4), respectively, of this section, the advice of the SSC, and any other relevant information, the Whiting PDT may also recommend to the Whiting Oversight Committee and Council changes to stock status determination criteria and associated thresholds based on the best scientific information available, including information from peer-reviewed stock assessments of small-mesh multispecies. These adjustments may be included in the Council's specifications for the small-mesh multispecies fishery.
 - (iv) **Council recommendation.**
 - (A) The Council shall review the recommendations of the Whiting PDT, Whiting Oversight Committee, and SSC, any public comment received thereon, and any other relevant information, and make a recommendation to the Regional Administrator on appropriate specifications and any measures necessary to assure that the specifications will not be exceeded.

- (B) The Council's recommendation must include supporting documentation, as appropriate, concerning the environmental, economic, and social impacts of the recommendations. The Regional Administrator will consider the recommendations and publish a rule in the FEDERAL REGISTER proposing specifications and associated measures, consistent with the Administrative Procedure Act.
 - (C) The Regional Administrator may propose specifications different than those recommended by the Council. If the specifications published in the FEDERAL REGISTER differ from those recommended by the Council, the reasons for any differences must be clearly stated and the revised specifications must satisfy the criteria set forth in this section, the FMP, and other applicable laws.
 - (D) If the final specifications are not published in the FEDERAL REGISTER for the start of the fishing year, the previous year's specifications will remain in effect until superseded by the final rule implementing the current year's specifications, to ensure that there is no lapse in regulations while new specifications are completed.
- (2) **Process for specifying ABCs, ACLs, and TALs.** The Whiting PDT shall calculate the OFL and ABC values for each small-mesh multispecies stock based on the control rules established in the FMP. These calculations shall be reviewed by the SSC and guided by terms of reference developed by the Council. The ACLs and TALs shall be calculated based on the SSC's approved ABCs, as specified in paragraphs (a)(2)(i)(A) through (C) and (a)(2)(ii)(A) through (C) of this section.
- (i) **Red hake —**
 - (A) **ABCs.**
 - (1) The Council's SSC will recommend an ABC to the Council for both the northern and southern stocks of red hake. The red hake ABCs are reduced from the OFLs based on an adjustment for scientific uncertainty as specified in the FMP; the ABCs must be less than or equal to the OFL.
 - (2) While the southern red hake stock is under a rebuilding plan, the ABC for that stock shall be set to 75-percent of the OFL for the duration of the rebuilding period or until the stock reaches its biomass target, whichever occurs first.
 - (B) **ACLs.** The red hake ACLs are equal to 95 percent of the corresponding ABCs.
 - (C) **TALs.**
 - (1) The red hake TALs are equal to the northern red hake and southern red hake ACLs minus a discard estimate based on the most recent 3 years of data and then reduced by 3 percent to account for silver hake and offshore hake landings that occur in state waters.
 - (2) If more than two-thirds of the southern red hake TAL is harvested in a single year, the Regional Administrator shall consult with the Council and will consider implementing quarterly TALs in the following fishing year, as prescribed in the FMP and in a manner consistent with the requirements of the Administrative Procedure Act.
 - (ii) **Silver and Offshore Hake —**

- (A) **ABCs.** The Council's SSC will recommend an ABC to the Council for both the northern and southern stocks of silver hake. The ABC for the southern stock of silver hake will be increased by 4 percent to account for catch of offshore hake. The combined silver hake and offshore hake ABC in the southern area will be the southern whiting ABC. The silver hake and whiting ABCs are reduced from the OFLs based on an adjustment for scientific uncertainty as specified in the FMP; the ABCs must be less than or equal to the OFLs.
 - (B) **ACLs.** The northern silver hake and southern whiting ACLs are equal to 95 percent of the ABCs.
 - (C) **TALs.**
 - (1) The northern silver hake and southern whiting TALs are equal to the northern silver hake and southern whiting ACLs minus a discard estimate based on the most recent 3 years of data and then reduced by 3 percent to account for silver hake and offshore hake landings that occur in state waters.
 - (2) If more than two-thirds of the southern whiting TAL is harvested in a single year, the Regional Administrator shall consult with the Council and will consider implementing quarterly TALs in the following fishing year, as proscribed in the FMP and in a manner consistent with the requirements of the Administrative Procedure Act.
- (3) ***Annual Review.***
- (i) Using a report provided by NMFS that includes trends in the fishery, changes in stock biomass, and total catch data, the Whiting PDT shall meet at least once annually to review the status of the stock and the fishery and the adequacy of the 3-year specifications. Based on such review, the PDT shall provide a report to the Council on any changes or new information about the small-mesh multispecies stocks and/or fishery, and it shall recommend whether the specifications for the upcoming year(s), established pursuant to paragraph (b)(1) of this section, need to be modified. At a minimum, this review should include a review of at least the following data, if available: Commercial catch data; discards; stock status (exploitation rate and survey biomass); sea sampling, port sampling, and survey data or, if sea sampling data are unavailable, length frequency information from port sampling and/or surveys; impact of other fisheries on the mortality of small-mesh multispecies; and any other relevant information.
 - (ii) If new and/or additional information becomes available, the Whiting PDT shall consider it during this annual review. Based on this review, the Whiting PDT shall provide guidance to the Whiting Oversight Committee and the Council regarding the need to adjust measures for the small-mesh multispecies fishery to better achieve the FMP's objectives. After considering this guidance, the Council may submit to NMFS its recommendations for changes to management measures, as appropriate, through the specifications process described in this section, the process specified in paragraph (c) of this section, or through an amendment to the FMP.
- (4) ***Specifications package.***
- (i) The Whiting PDT shall prepare a specification package, including a SAFE Report, at least every 3 years. Based on the specification package, the Whiting PDT shall develop and present to the Council recommended specifications as defined in paragraph (a) of this section for up to 3 fishing years. The specifications package shall be the primary vehicle for the presentation of all updated biological and socio-economic information regarding the small-mesh multispecies fishery. The specifications package shall provide source data for any adjustments to the

management measures that may be needed to continue to meet the goals and objectives of the FMP. The specifications package may include modifications to the OFL, ABC, ACL, TAL, possession limits, and in-season possession limit triggers.

- (ii) In any year in which a specifications package, including a SAFE Report, is not completed by the Whiting PDT, the annual review process described in paragraph (a) of this section shall be used to recommend any necessary adjustments to specifications and/or management measures in the FMP.

(5) **Accountability measures for the small-mesh multispecies fishery—**

- (i) **In-season adjustment of possession limits.** In-season adjustment accountability measures for the small-mesh multispecies fishery are specified in accordance with the procedures in § 648.86(d)(4).
- (ii) **Post-season adjustment for an overage.** If NMFS determines that a small-mesh multispecies ACL was exceeded in a given fishing year, the in-season accountability measure adjustment trigger, as specified in paragraph (b)(5)(iii) of this section, shall be reduced in a subsequent fishing year by 1 percent for each 1 percent by which the ACL was exceeded through notification consistent with the Administrative Procedure Act. For example, if the in-season adjustment trigger is 90 percent, and an ACL is exceeded by 5 percent, the adjustment trigger for the stock whose ACL was exceeded would be reduced to 85 percent for subsequent fishing years.
- (iii) **Small-mesh multispecies in-season adjustment triggers.** The small-mesh multispecies in-season accountability measure adjustment triggers are as follows:

Species	In-season adjustment trigger (percent)
Northern Red Hake	90
Northern Silver Hake	90
Southern Red Hake	40.4
Southern Silver Hake	90

- (c) **Within season management action for NE multispecies, including small-mesh NE multispecies.** The Council may, at any time, initiate action to add or adjust management measures if it finds that action is necessary to meet or be consistent with the goals and objectives of the NE Multispecies FMP, to address gear conflicts, or to facilitate the development of aquaculture projects in the EEZ. This procedure may also be used to modify FMP overfishing definitions and fishing mortality targets that form the basis for selecting specific management measures.

(1) **Adjustment process.**

- (i) After a management action has been initiated, the Council shall develop and analyze appropriate management actions over the span of at least two Council meetings. The Council shall provide the public with advance notice of the availability of both the proposals and the analyses and opportunity to comment on them prior to and at the second Council meeting. The Council's recommendation on adjustments or additions to management measures, other than to address gear conflicts, must come from one or more of the following categories: DAS changes; effort monitoring; data reporting; possession limits; gear restrictions; closed areas; permitting restrictions; crew limits; minimum fish sizes; onboard observers; minimum hook size and hook style; the use of crucifer in the hook-gear fishery; sector requirements; recreational fishing measures; area closures and other appropriate measures to mitigate marine mammal entanglements and interactions; description and identification of EFH; fishing gear management measures to protect EFH; designation of habitat areas of particular concern within EFH; changes to the SBRM, including the CV-based performance standard, the means by which discard data are collected/obtained, fishery stratification, the process for prioritizing observer sea-day allocations, reports, and/or industry-funded observers or observer set aside programs; and any other management measures currently included in the FMP.
 - (ii) The Council's recommendation on adjustments or additions to management measures pertaining to small-mesh NE multispecies, other than to address gear conflicts, must come from one or more of the following categories: Quotas and appropriate seasonal adjustments for vessels fishing in experimental or exempted fisheries that use small mesh in combination with a separator trawl/grate (if applicable); modifications to separator grate (if applicable) and mesh configurations for fishing for small-mesh NE multispecies; adjustments to whiting stock boundaries for management purposes; adjustments for fisheries exempted from minimum mesh requirements to fish for small-mesh NE multispecies (if applicable); season adjustments; declarations; participation requirements for any of the Gulf of Maine/Georges Bank small-mesh multispecies exemption areas; OFL and ABC values; ACL, TAL, or TAL allocations, including the proportions used to allocate by season or area; small-mesh multispecies possession limits, including in-season AM possession limits; changes to reporting requirements and methods to monitor the fishery; and biological reference points, including selected reference time series, survey strata used to calculate biomass, and the selected survey for status determination; and changes to the SBRM, including the CV-based performance standard, the means by which discard data are collected/obtained, fishery stratification, the process for prioritizing observer sea-day allocations, reports, and/or industry-funded observers or observer set aside programs.
 - (iii) **Adjustment process for whiting DAS.** The Council may develop recommendations for a whiting DAS effort reduction program through the framework process outlined in paragraph (c) of this section only if these options are accompanied by a full set of public hearings that span the area affected by the proposed measures in order to provide adequate opportunity for public comment.
- (2) **Adjustment process for gear conflicts.** The Council may develop a recommendation on measures to address gear conflicts as defined under 50 CFR 600.10, in accordance with the procedures specified in § 648.55 (d) and (e).
 - (3) **Council recommendation.** After developing management actions and receiving public testimony, the Council shall make a recommendation to the Regional Administrator. The Council's recommendation must include supporting rationale and, if management measures are recommended, an analysis of impacts and a recommendation to the Regional Administrator on whether to issue the management

measures as a final rule, consistent with the Administrative Procedure Act. If the Council recommends that the management measures should be issued as a final rule, the Council must consider at least the following factors and provide support and analysis for each factor considered:

- (i) Whether the availability of data on which the recommended management measures are based allows for adequate time to publish a proposed rule, and whether regulations have to be in place for an entire harvest/fishing season.
 - (ii) Whether there has been adequate notice and opportunity for participation by the public and members of the affected industry in the development of the Council's recommended management measures.
 - (iii) Whether there is an immediate need to protect the resource.
 - (iv) Whether there will be a continuing evaluation of management measures adopted following their implementation as a final rule.
- (4) **Regional Administrator action.** If the Council's recommendation includes adjustments or additions to management measures, after reviewing the Council's recommendation and supporting information:
- (i) If the Regional Administrator concurs with the Council's recommended management measures and determines that the recommended management measures should be issued as a final rule, based on the factors specified in paragraph (c)(3) of this section, the measures will be issued as a final rule in the FEDERAL REGISTER, consistent with the Administrative Procedure Act.
 - (ii) If the Regional Administrator concurs with the Council's recommendation and determines that the recommended management measures should be published first as a proposed rule, the measures will be published as a proposed rule in the FEDERAL REGISTER. After additional public comment, if the Regional Administrator concurs with the Council's recommendation, the measures will be issued as a final rule in the FEDERAL REGISTER.
 - (iii) If the Regional Administrator does not concur, the Council will be notified in writing of the reasons for the non-concurrence.
- (d) **Flexible Area Action System.**
- (1) The Chair of the Multispecies Oversight Committee, upon learning of the presence of discard problems associated with large concentrations of juvenile, sublegal, or spawning multispecies, shall determine if the situation warrants further investigation and possible action. In making this determination, the Committee Chair shall consider the amount of discard of regulated species, the species targeted, the number and types of vessels operating in the area, the location and size of the area, and the resource condition of the impacted species. If he/she determines it is necessary, the Committee Chair will request the Regional Administrator to initiate a fact finding investigation to verify the situation and publish notification in the FEDERAL REGISTER requesting public comments in accordance with the procedures therefore in Amendment 3 to the NE Multispecies FMP.
 - (2) After examining the facts, the Regional Administrator shall, within the deadlines specified in Amendment 3, provide the technical analysis required by Amendment 3.
 - (3) The NEFMC shall prepare an economic impact analysis of the potential management options under consideration within the deadlines specified in Amendment 3.

- (4) Copies of the analysis and reports prepared by the Regional Administrator and the NEFMC shall be made available for public review at the NEFMC's office and the Committee shall hold a meeting/public hearing, at which time it shall review the analysis and reports and request public comments. Upon review of all available sources of information, the Committee shall determine what course of action is warranted by the facts and make a recommendation, consistent with the provisions of Amendment 3 to the Regional Administrator.
- (5) By the deadline set in Amendment 3 the Regional Administrator shall either accept or reject the Committee's recommendation. If the recommended action is consistent with the record established by the fact-finding report, impact analysis, and comments received at the public hearing, he/she shall accept the Committee's recommendation and implement it through notification in the FEDERAL REGISTER and by notice sent to all vessel owners holding multispecies permits. The Regional Administrator shall also use other appropriate media, including, but not limited to, mailings to the news media, fishing industry associations and radio broadcasts, to disseminate information on the action to be implemented.
- (6) Once implemented, the Regional Administrator shall monitor the affected area to determine if the action is still warranted. If the Regional Administrator determines that the circumstances under which the action was taken, based on the Regional Administrator's report, the NEFMC's report, and the public comments, are no longer in existence, he/she shall terminate the action by notification in the FEDERAL REGISTER.
- (7) Actions taken under this section will ordinarily become effective upon the date of filing with the Office of the Federal Register. The Regional Administrator may determine that facts warrant a delayed effective date.
- (e) Nothing in this section is meant to derogate from the authority of the Secretary to take emergency action and interim measures under section 305(c) of the Magnuson-Stevens Act.

[69 FR 22984, Apr. 27, 2004]

Editorial Note: For FEDERAL REGISTER citations affecting § 648.90, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.govinfo.gov.

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

Link to an amendment published at 89 FR 102838, Dec. 18, 2024.

All vessels fishing for, possessing or landing monkfish must comply with the following minimum mesh size, gear, and methods of fishing requirements, unless otherwise exempted or prohibited:

- (a) **Northern Fishery Management Area (NFMA) —Area definition.** The NFMA (copies of a chart depicting the area are available from the Regional Administrator upon request) is that area defined by a line beginning at the intersection of 70° W. longitude and the south-facing shoreline of Cape Cod, MA (point A), then southward along 70° W. longitude to 41° N. latitude, then eastward to the U.S.-Canada maritime boundary, then in a northerly direction along the U.S.-Canada maritime boundary until it intersects the Maine shoreline, and then following the coastline in a southerly direction until it intersects with point A.

- (b) ***Southern Fishery Management Area (SFMA) –Area definition.*** The SFMA (copies of a chart depicting the area are available from the Regional Administrator upon request) is that area defined by a line beginning at point A, then in a southerly direction to the NC-SC border, then due east to the 200-mile limit, then in a northerly direction along the 200-mile limit to the U.S.-Canada maritime boundary, then in a northwesterly direction along the U.S.-Canada maritime boundary to 41° N. latitude, and then westward to 70° W. longitude, and finally north to the shoreline at Cape Cod, MA (point A).
- (c) ***Gear restrictions –***
- (1) ***Minimum mesh size –***
- (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.*** Vessels issued a Category C, D, G, or H limited access monkfish permit and fishing with trawl gear under both a monkfish and NE multispecies DAS are subject to the minimum mesh size 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, unless otherwise specified in this paragraph (c)(1)(ii). Trawl vessels participating in the Offshore Fishery Program, as described in § 648.95, and that have been issued a Category F monkfish limited access permit, are subject to the minimum mesh size specified in paragraph (c)(1)(i) of this section.
- (iii) ***Gillnets while on a monkfish DAS for fishing years 2023, 2024, and 2025.*** Until April 30, 2026, the minimum mesh size for any gillnets used by a vessel fishing under a monkfish DAS is 10-inch (25.4-cm) diamond mesh, unless the vessel meets one of the exceptions in paragraph (c)(1)(v) of this section.
- (iv) ***Gillnets while on a monkfish DAS from fishing year 2026 and beyond.*** Starting May 1, 2026, the minimum mesh size for any gillnets used by a vessel fishing under a monkfish DAS is 12-inch (30.5-cm) diamond mesh, unless the vessel meets one of the exceptions in paragraph (c)(1)(v) of this section.
- (v) ***Exceptions from the minimum mesh size for gillnets on a monkfish DAS.*** A vessel fishing with gillnet gear under a monkfish DAS is subject to the minimum mesh size as defined in paragraph (c)(1)(iii) or (iv) of this section, unless:
- (A) The owner or operator of a limited access NE multispecies vessel fishing under a NE multispecies category A DAS with gillnet gear in the NFMA changes the vessel's DAS declaration to a monkfish DAS through the vessel's VMS unit during the trip in accordance with the provisions specified under § 648.92(b)(1)(vi);
- (B) A vessel issued a Category C or D limited access monkfish permit is fishing under both a monkfish and NE multispecies Category A DAS in the SFMA using roundfish gillnets, as defined at § 648.2, with 6.5-inch (16.5-cm) diamond mesh;

- (C) A vessel issued a limited access monkfish permit is fishing on a monkfish-only DAS in the Mid-Atlantic Exemption Area using roundfish gillnets with a minimum mesh size of 5 inches (12.7 cm) in accordance with the provisions specified under § 648.80(c)(5); or
- (D) A vessel issued a limited access monkfish permit is fishing on a monkfish-only DAS in the Southern New England Dogfish Exemption Area using roundfish gillnets with a minimum mesh size of 6 inches (15.2 cm) in accordance with the provisions specified under § 648.80(b)(7).
- (vi) **Authorized gear while on a monkfish and scallop DAS.** Vessels issued a Category C, D, G, or H limited access monkfish permit and fishing under a monkfish and scallop DAS may only fish with and use a trawl net with a mesh size no smaller than that specified in paragraph (c)(1)(i) of this section.
- (2) **Other gear restrictions.**
 - (i) A vessel may not fish with dredges or have dredges on board while fishing under a monkfish DAS.
 - (ii) All other non-conforming gear must be stowed and not available for immediate use as defined in § 648.2.
 - (iii) The mesh size restrictions in paragraph (c)(1) of this section do not apply to nets or pieces of nets smaller than 3 ft (0.9 m) × 3 ft (0.9 m), (9 ft² (0.81 m²)).
- (3) **SFMA trawl roller gear restriction.** The roller gear diameter on any vessel on a monkfish DAS in the SFMA may not exceed 6 inches (15.2 cm) in diameter.

[64 FR 54747, Oct. 7, 1999, as amended at 65 FR 37917, June 19, 2000; 67 FR 50323, Aug. 1, 2002; 70 FR 21942, Apr. 28, 2005; 72 FR 53949, Sept. 21, 2007; 79 FR 52580, Sept. 4, 2014; 81 FR 58865, Aug. 26, 2016; 88 FR 54498, Aug. 11, 2023]

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

- (a) **General.** A vessel issued a limited access monkfish permit may not fish for, possess, retain, or land monkfish, except during a DAS as allocated under and in accordance with the applicable DAS program described in this section, except as otherwise provided in this part.
 - (1) **End of year carryover.** With the exception of a vessel that held a Confirmation of Permit History, as described in § 648.4(a)(1)(i)(J), for the entire fishing year preceding the carryover year, a limited access monkfish vessel that has unused monkfish DAS on the last day of April of any year may carry over a maximum of 4 unused monkfish DAS into the next fishing year. A vessel whose DAS have been sanctioned through enforcement proceedings shall be credited with unused DAS based on its DAS allocation minus any DAS that have been sanctioned.
 - (2) [Reserved]
- (b) **Monkfish DAS program—permit categories and allocations —**
 - (1) **Limited access monkfish permit holders —**
 - (i) **DAS allocations.** Each vessel issued a limited access monkfish permit will be allocated 35 monkfish DAS each fishing year that may be used only in the Northern Fishery Management Area as defined in § 648.91(a). Each vessel issued a limited access monkfish permit will also be allocated 37 monkfish DAS each fishing year that may be used only in the Southern Fishery

Management Area as defined in § 648.91(b). The annual allocation of monkfish DAS to each vessel issued a limited access monkfish permit in the NFMA and SFMA shall be reduced by the amount calculated in paragraph (b)(1)(iii) of this section for the research DAS set-aside. All DAS must be used in accordance with the provisions of this paragraph (b) unless the permit is enrolled in the Offshore Fishery Program in the SFMA, as specified in paragraph (b)(1)(ii) of this section.

- (ii) **Offshore fishery program DAS allocation.** A vessel issued a Category F permit, as described in § 648.95, shall be allocated a prorated number of monkfish DAS as specified in § 648.95(g)(2).
- (iii) **Research DAS set-aside.** A total of 500 DAS will be set aside and made available for cooperative research programs as described in paragraph (c) of this section. These DAS shall be deducted proportionally from the DAS allocated to each vessel issued a limited access monkfish permit by the process prescribed in this paragraph (b)(1)(iii).
 - (A) **Calculating the total per vessel DAS deduction.** The total per vessel DAS deduction will be calculated as the quotient of 500 divided by the total number of limited access permits issued in the previous fishing year.
 - (B) **Calculating the per vessel DAS deduction for the NFMA and SFMA.** The total vessel DAS deduction will be distributed proportionally to the DAS for the NFMA and SFMA allocated to each vessel issued a monkfish limited access permit, as specified in paragraph (b)(1)(i) of this section. To determine the per-vessel deduction from the NFMA DAS allocation, the total per vessel deduction will be multiplied by the quotient of the NFMA DAS allocation divided by the total number of DAS allocated to each monkfish limited access vessel. To determine the per-vessel deduction from the SFMA DAS allocation, the NFMA deduction will be subtracted from the total per vessel deduction.
 - (C) **Example.** If, in the current year, each vessel is allocated 30 NFMA DAS and 20 SFMA DAS, then the total vessel DAS allocation is 50 DAS. In this example, 625 limited access monkfish permits were issued in the previous year. Dividing 500 by the 625 permits equals a total per-vessel DAS deduction of 0.8 DAS. Dividing the NFMA allocation of 30 DAS by the total DAS allocation of 50 DAS equals 0.6. Multiplying 0.6 by 0.8 equals an NFMA DAS deduction of 0.48, which is rounded to 0.5. Subtracting the 0.5 NFMA DAS deduction from the total per vessel deduction of 0.8 results in an SFMA DAS deduction of 0.3 DAS. The result of is that each limited access monkfish vessel would be allocated 29.5 NFMA DAS and 19.7 SFMA DAS.
- (iv) **General DAS usage restrictions.** A vessel issued a limited access monkfish permit may not use more than 46 allocated monkfish DAS in a fishing year. Unless otherwise specified in paragraph (b)(2) of this section or under this subpart, a vessel issued a limited access NE multispecies or limited access Atlantic sea scallop permit that is also issued a limited access monkfish permit must use a NE multispecies or sea scallop DAS concurrently with each monkfish DAS utilized.
- (v) **DAS declaration requirements.** Each vessel issued a limited access monkfish permit that intends to fish under a monkfish DAS must declare that it will fish in either the NFMA or SFMA through the vessel call-in system or VMS prior to the start of each trip. A vessel fishing or intending to fish for, possessing, or landing monkfish under a NE multispecies, scallop, or monkfish DAS under the management measures of the NFMA, must fish exclusively in the NFMA for the entire trip. In addition, a vessel that is not required to and does not possess a VMS unit must declare its intent to fish in the NFMA by obtaining a letter of authorization from

the Regional Administrator, which is effective for a period of not less than 7 days, and fish exclusively in the NFMA during the effective period of that letter of authorization. A vessel that has not declared into the NFMA under this paragraph (b)(1)(v) shall be presumed to have fished in the SFMA and shall be subject to the requirements of that area. A vessel that has declared into the NFMA may transit the SFMA, providing that it complies with the transiting and gear storage provision described in § 648.94(e).

- (vi) **Monkfish Option provision and declaration requirements.** Any limited access NE multispecies vessel fishing on a sector trip or under a NE multispecies Category A DAS in the NFMA, and issued an LOA as specified in paragraph (b)(1)(v) of this section, may change its DAS declaration to a monkfish DAS through the vessel's VMS unit during the course of the trip after leaving port, but prior to crossing the VMS demarcation line upon its return to port or leaving the NFMA, if the vessel exceeds the incidental catch limit specified under § 648.94(c).
 - (A) Vessels that change their DAS declaration from a NE multispecies Category A DAS to a monkfish DAS during a trip remain subject to the NE multispecies DAS usage requirements (i.e., use a NE multispecies Category A DAS in conjunction with the monkfish DAS) described in paragraph (b)(2)(iv) of this section.
 - (B) Gillnet vessels that change their DAS declaration in accordance with this paragraph (b)(1)(vi) are not subject to the gillnet minimum mesh size restrictions found at § 648.91(c)(1)(iii) and (iv) but are subject to the smaller NE multispecies minimum mesh requirements for gillnet vessels found under § 648.80 based upon the NE Multispecies Regulated Mesh Area in which the vessel is fishing.

(2) **Category C, D, F, G, or H limited access monkfish permit holders.**

- (i) **General provision.** Unless otherwise specified in paragraph (b)(2)(ii) of this section, each monkfish DAS used by a vessel issued a limited access monkfish Category C, D, F, G, or H permit and a limited access NE multispecies or scallop DAS permit shall also be counted as a NE multispecies or scallop DAS, as applicable. A vessel issued a limited access monkfish Category C, D, F, or H permit may not use a NE multispecies Category B Regular DAS under the NE Multispecies Regular B DAS Program, as specified under § 648.85(b)(6), in order to satisfy the requirement of this paragraph (b)(2)(i) to use a NE multispecies DAS concurrently with a monkfish DAS.
- (ii) **Monkfish-only DAS.** When a vessel issued a limited access monkfish Category C, D, F, G, or H permit and a limited access NE multispecies DAS permit has an allocation of NE multispecies Category A DAS, specified under § 648.82(d)(1), that is less than the number of monkfish DAS allocated for the fishing year May 1 through April 30, that vessel shall be allocated "monkfish-only" DAS equal to the difference between the number of its allocated monkfish DAS and the number of its allocated NE multispecies Category A DAS at the start of a fishing year. For example, if a vessel issued a limited access monkfish Category D permit is allocated 30 monkfish DAS for use in the Northern Fishery Management Area, 20 monkfish DAS for use in the Southern Fishery Management Area, and 26 NE multispecies Category A DAS, it would have 24 monkfish-only DAS at the start of each fishing year. The available balance of monkfish-only DAS may vary throughout the fishing year based upon monkfish-only DAS usage and the acquisition or relinquishment of NE multispecies DAS under the NE Multispecies DAS Leasing Program, as specified in paragraph (b)(2)(iii) of this section. A vessel issued a limited access monkfish Category C, D, F, G, or H permit may use monkfish-only DAS without the concurrent use of a NE multispecies DAS at any time throughout the fishing year, regardless of the number

of NE multispecies Category A DAS available. When fishing under a monkfish-only DAS, the vessel must fish under the regulations in this part pertaining to a limited access monkfish Category A or B permit, as applicable, and may not retain any regulated NE multispecies. For example, a vessel issued a limited access monkfish Category C permit must comply with the monkfish landing limits applicable to a Category A monkfish permit when fishing under a monkfish-only DAS.

(iii) *Category C, D, F, G, or H vessels that lease NE multispecies DAS.*

- (A) A vessel issued a limited access monkfish Category C, D, F, G, or H permit that has monkfish-only DAS, as specified in paragraph (b)(2)(ii) of this section, and that leases NE multispecies DAS from another vessel pursuant to § 648.82(k), must fish its available monkfish-only DAS in conjunction with its leased NE multispecies DAS, to the extent that the vessel has NE multispecies DAS available.
- (B) A vessel issued a limited access monkfish Category C, D, F, G, or H permit may forfeit some of its monkfish DAS, if it leases NE multispecies DAS to another vessel(s), pursuant to § 648.82(k). The number of monkfish DAS forfeited by a vessel depends on its balance of Monkfish and NE multispecies DAS at the time of the lease. Any forfeited monkfish DAS will be deducted proportionally between the DAS allocated to the vessel for use in the Northern Fishery Management Area and Southern Fishery Management Area in paragraph (b)(1)(i) of this section.
 - (1) If the vessel's unused monkfish DAS balance is greater than or equal to its unused NE multispecies DAS balance, at the time of the lease, then the vessel will forfeit an amount of monkfish DAS equal to the number of NE multispecies DAS being leased to another vessel. For example, if a vessel has 40 monkfish DAS and 30 NE multispecies DAS and it leases 10 NE multispecies DAS in accordance with § 648.82(k), then, as part of the lease, the vessel would forfeit 10 monkfish DAS and be left with 30 monkfish DAS and 20 multispecies DAS.
 - (2) If the vessel's unused monkfish DAS balance is less than its unused NE multispecies DAS balance, at the time of lease, then the vessel will forfeit an amount of monkfish DAS equal to the number of NE multispecies DAS being leased minus the difference between the vessel's unused NE multispecies DAS balance and the vessel's unused monkfish DAS balance. If the number of NE multispecies DAS being leased is less than the difference between the vessel's unused NE multispecies DAS balance and the vessel's unused monkfish DAS balance, then no monkfish DAS are forfeited. For example, if a vessel has 25 monkfish DAS and 30 NE multispecies DAS at the time of the lease, and it leases 10 NE multispecies DAS, the vessel would forfeit 5 monkfish DAS (10 leased – [30 NE multispecies DAS – 25 monkfish DAS] = 5 forfeited monkfish DAS). If, however, the vessel has 25 monkfish DAS and 40 NE multispecies and the vessel leases 10 NE multispecies DAS, it would not forfeit any monkfish DAS (10 leased NE multispecies DAS – [40 NE multispecies DAS – 25 monkfish DAS] = –5. The number of DAS forfeited cannot be negative, so 0 DAS are forfeited).
- (3) *Accrual of DAS.* Unless otherwise provided in § 648.92(b)(8)(v), all monkfish DAS fished shall be charged to the nearest minute.
- (4) *DAS credits —*

- (i) **Good Samaritan credit.** A limited access vessels fishing under the DAS program and that spends time at sea assisting in a USCG search and rescue operation or assisting the USCG in towing a disabled vessel, and that can document the occurrence through the USCG, will not accrue DAS for the time documented.
- (ii) **Canceled trip DAS credit.** A limited access vessel operating under the DAS program and that end a fishing trip prior to setting and/or hauling fishing gear for any reason may request a cancelled trip DAS credit for the trip based on the following conditions and requirements.
 - (A) There is no fish onboard the vessel and no fishing operations on the vessel were initiated, including setting and/or hauling fishing gear; and
 - (B) The owner or operator of the vessel fishing under a DAS program and required to use a VMS as specified under § 648.10(b) makes an initial trip cancelation notification from sea, at the time the trip was canceled, or at the earliest opportunity prior to crossing the demarcation line as defined at § 648.10(a). These reports are in the form of an email to NMFS Office of Law Enforcement and include at least the following information: Operator name; vessel name; vessel permit number; port where vessel will return; date trip started; estimated date/time of return to port; and a statement from the operator that no fish were onboard and no fishing activity occurred; and
 - (C) The owner or operator of the vessel operating under the DAS program required to use the IVR call in as specified under § 648.10(h) makes an initial trip cancelation notification to NMFS by calling the IVR back at the time the trip was canceled, or at the earliest opportunity prior to returning to port. This request must include at least the following information: Operator name; vessel name; vessel permit number; port where vessel will return; date trip started; estimated date/time of return to port; and a statement from the operator that no fish were onboard and no fishing activity occurred; and
 - (D) The owner or operator of the vessel requesting a canceled trip DAS credit, in addition to the requirements in paragraphs (b)(4)(ii)(B) and (C) of this section, submits a written DAS credit request form to NMFS within 30 days of the vessel's return to port from the canceled trip. This application must include at least the following information: Date and time when the vessel canceled the fishing trip; date and time of trip departure and landing; operator name; owner/corporation name; permit number; hull identification number; vessel name; date and time notification requirements specified under paragraphs (b)(4)(ii)(B) and (C) of this section were made; reason for canceling the trip; and owner/operator signature and date; and
 - (E) The vessel trip report for the canceled trip as required under § 648.7(b) is submitted along with the DAS credit request form; and
 - (F) For DAS credits that are requested near the end of the fishing year as defined at § 648.2, and approved by the Regional Administrator, the credited DAS apply to the fishing year in which the canceled trip occurred. Credited DAS that remain unused at the end of the fishing year or are not credited until the following fishing year and may be carried over into the next fishing year, not to exceed the maximum number of carryover DAS as specified under paragraph (a)(1) of this section.

(5) [Reserved]

- (6) **Declaring monkfish DAS.** A vessel's owner or authorized representative shall notify the Regional Administrator of a vessel's participation in the monkfish DAS program using the notification requirements specified in § 648.10.
- (7) **Adjustments in annual monkfish DAS allocations.** Adjustments in annual monkfish DAS allocations, if required to meet fishing mortality goals, may be implemented pursuant to the framework adjustment procedures of § 648.96.
- (8) **Gillnet restrictions –**
 - (i) **Number and size of nets –**
 - (A) **Category A and B vessels.** A vessel issued a monkfish limited access Category A or B permit and fishing under a monkfish DAS may not fish with, haul, possess, or deploy more than 160 gillnets. Nets may not be longer than 300 ft (91.44 m), or 50 fathoms, in length.
 - (B) **Category C, D, F, G, and H vessels that possess a limited access NE multispecies permit.** A vessel issued a valid monkfish limited access Category C, D, F, G, or H permit that possesses a valid limited access NE multispecies permit and fishing under a monkfish DAS may not fish with, haul, possess, or deploy more than 150 gillnets. A vessel issued a NE multispecies limited access permit and a limited access monkfish permit, and fishing under a monkfish DAS, may fish any combination of monkfish, roundfish, and flatfish gillnets, up to 150 nets total, provided that the number of monkfish, roundfish, and flatfish gillnets is consistent with the limitations of § 648.82. Nets may not be longer than 300 ft (91.4 m), or 50 fathoms, in length.
 - (ii) **Tagging requirements.** Beginning May 1, 2000, all gillnets fished, hauled, possessed, or deployed by a vessel fishing for monkfish under a monkfish DAS must have one monkfish tag per net, with one tag secured to every other bridle of every net within a string of nets. Tags must be obtained as described in § 648.4. A vessel operator must account for all net tags upon request by an authorized officer.
 - (iii) **Lost tags.** A vessel owner or operator must report lost, destroyed, or missing tag numbers by letter or fax to the Regional Administrator within 24 hours after tags have been discovered lost, destroyed, or missing.
 - (iv) **Replacement tags.** A vessel owner or operator seeking replacement of lost, destroyed, or missing tags must request replacement tags by letter or fax to the Regional Administrator. A check for the cost of the replacement tags must be received before the tags will be re-issued.
 - (v) **Method of counting DAS.** A vessel fishing with gillnet gear under a monkfish DAS shall accrue 15 hours monkfish DAS for all trips less than or equal to 15 hours in duration. Such vessels shall accrue monkfish DAS based on actual time at sea for trips greater than 15 hours in duration. A vessel fishing with gillnet gear under only a monkfish DAS is not required to remove gillnet gear from the water upon returning to the dock and calling out of the DAS program, provided the vessel complies with the requirements and conditions of paragraphs (b)(8)(i)-(v) of this section. A vessel fishing with gillnet gear under a joint monkfish and NE multispecies DAS, as required under § 648.92(b)(2)(i), that is declared as a trip gillnet vessel under the NE Multispecies FMP, must remove its gillnet gear from the water prior to calling out of the DAS program, as specified at § 648.82(j)(2).
- (9) **Category G and H limited access permit holders.**

- (i) A vessel issued a limited access monkfish Category G or H permit may fish under a monkfish DAS only in the SFMA, as defined at § 648.91(b).
 - (ii) Vessels issued valid limited access monkfish Category G or H permit that also possess a limited access NE multispecies or limited access scallop permit are subject to the same provisions as Category C or D vessels, respectively, unless otherwise stated under this subpart F.
- (10) **DAS Adjustment for Trip Limit Overage.** Any limited access monkfish vessel, required to or voluntarily using a VMS, fishing on a monkfish DAS may land up to the equivalent of one additional day's worth of its trip limit (i.e., amount of monkfish authorized per DAS) than would otherwise be authorized, provided the vessel, vessel owner, or vessel operator notifies the Regional Administrator of the overage via VMS prior to crossing the VMS demarcation line. If the vessel is not required to be, or is not equipped with an operable VMS, the vessel, vessel operator, or owner must notify the Regional Administrator via the call-in system at least 1-hr prior to landing. The monkfish DAS charged to the vessel will then be increased to equal a full 24-hr period plus 1 minute to account for the trip limit overage. For example, if a vessel has the equivalent of two monkfish DAS trip limits (based on its permit category) on board, but has only been declared into the monkfish DAS program for 15 hr, the vessel, vessel owner, or vessel operator may land fish equal to the two DAS trip limits only if the Regional Administrator of the overage is notified via VMS or the call-in system as described above. In this case, the monkfish DAS charged to the vessel would be adjusted from 15 hr to 24 hr and 1 minute.

(c) **Monkfish Research —**

(1) **DAS Set-Aside Program.**

- (i) NMFS shall publish a Request for Proposals (RFP) in the FEDERAL REGISTER consistent with procedures and requirements established by the NOAA Grants Office to solicit proposals for the upcoming fishing year that are based on research priorities identified by the Councils.
- (ii) NMFS shall convene a review panel that may include members of the Councils' Monkfish Oversight Committee, the Council's Research Steering Committee, and other subject matter experts, to review proposals submitted in response to the RFP.
 - (A) Each panel member shall recommend which research proposals should be authorized to utilize the research DAS set aside in accordance with paragraph (b)(1)(iii) of this section, based on the selection criteria described in the RFP.
 - (B) NMFS and the NOAA Grants Office shall consider each panel member's recommendation, and NOAA shall provide final approval of the projects, and notify applicants of the grant award through written notification to the project proponent. The Regional Administrator may exempt selected vessel(s) from regulations specified in each of the respective FMPs through the exempted fishing permit (EFP) process specified under § 600.745(b)(2).
- (iii) The grant awards approved under the RFPs shall be for the upcoming fishing year. Proposals to fund research that would start prior to the fishing year are not eligible for consideration. Multi-year grant awards may be approved under an RFP for an upcoming fishing year, so long as the research DAS available under subsequent RFPs are adjusted to account for the approval of multi-year awards.

- (iv) Research projects shall be conducted in accordance with provisions approved and provided in an EFP issued by the Regional Administrator, as authorized under § 600.745(b)(2).
- (v) If the Regional Administrator determines that the annual allocation of research DAS will not be used in its entirety once all of the grant awards have been approved, the Regional Administrator shall reallocate the unallocated research DAS as exempted DAS to be authorized as described in paragraph (c)(2) of this section, and provide notice of the reallocation of DAS in the FEDERAL REGISTER. Any allocated research DAS that are not used during the fishing year for which they are granted may be carried over into the next fishing year. Any unallocated research DAS may not be carried over into the next fishing year.
- (vi) For proposals that require other regulatory exemptions that extend beyond the scope of the analysis contained in the Monkfish FMP, subsequent amendments, or framework adjustments, applicants may be required to provide additional analysis of the impacts of the requested exemptions before issuance of an EFP will be considered.

(2) **DAS Exemption Program.**

- (i) Vessels that seek to conduct monkfish research within the current fishing year, and that were not selected in the RFP process during the previous fishing year, may seek exemptions from monkfish DAS for the purpose of conducting exempted fishing activities, as authorized at § 600.745(b), under the following conditions and restrictions:
 - (A) The request for a monkfish DAS exemption must be submitted along with a complete application for an EFP to the Regional Administrator. The requirements for submitting a complete EFP application are provided in § 600.745(b)(2);
 - (B) Exempted DAS must be available for usage. Exempted DAS shall only be made available by the Regional Administrator if it is determined that the annual set-aside of research DAS will not be used in its entirety, as described in paragraph (c)(1)(v) of this section. If exempted DAS are not available for usage, the applicant may continue to seek an exemption from monkfish DAS, but may be required to conduct an analysis of the impacts associated with the monkfish DAS exemption request before issuance of the EFP application will be considered; and
 - (C) For EFP applications that require other regulatory exemptions that extend beyond the scope of the analysis contained in the Monkfish FMP, subsequent amendments, or framework adjustments, applicants may be required to provide additional analysis of the impacts of the requested exemptions before issuance of an EFP will be considered.
- (ii) Monkfish DAS exemption requests shall be reviewed and approved by the Regional Administrator in the order in which they are received.

[64 FR 54748, Oct. 7, 1999]

Editorial Note: For FEDERAL REGISTER citations affecting § 648.92, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.govinfo.gov.

§ 648.93 Monkfish minimum fish sizes.

- (a) **General provisions.** All monkfish caught by vessels issued a valid Federal monkfish permit must meet the minimum fish size requirements established in this section.

MINIMUM FISH SIZES (TOTAL LENGTH/TAIL LENGTH)

Total Length	Tail Length
17 inches (43.2 cm)	11 inches (27.9 cm)

- (b) The minimum fish size applies to the whole fish (total length) or to the tail of a fish (tail length) at the time of landing. Fish or parts of fish, with the exception of cheeks and livers, must have skin on while possessed on board a vessel and at the time of landing in order to meet minimum size requirements. "Skin on" means the entire portion of the skin normally attached to the portion of the fish or fish parts possessed. Monkfish tails are measured from the anterior portion of the fourth cephalic dorsal spine to the end of the caudal fin. Any tissue anterior to the fourth dorsal spine is ignored. If the fourth dorsal spine or the tail is not intact, the minimum size is measured between the most anterior vertebra and the most posterior portion of the tail.

[64 FR 54749, Oct. 7, 1999, as amended at 68 FR 22329, Apr. 28, 2003; 70 FR 21944, Apr. 28, 2005; 79 FR 41924, July 18, 2014]

§ 648.94 Monkfish possession and landing restrictions.

- (a) **General.** Monkfish may be possessed or landed either as tails only, tails with associated heads possessed separately, or in whole form (head on and gutted), or any combination of the three provided the weight of monkfish heads on board does not exceed 1.91 times the weight of monkfish tails on board. When any combination of tails, and whole fish are possessed or landed, the possession or landing limit shall be based on tail weight where all whole monkfish (head on and gutted) are converted to tail weight using the conversion factor of 2.91. For example, whole weight is converted to tail weight by dividing the whole weight by 2.91. Conversely, tail weight is converted to whole weight by multiplying the tail weight by 2.91. If heads only are possessed in combination with tails, the possession or landing limit for monkfish heads may not exceed 1.91 times the tail weight of fish on board, excluding any whole monkfish. The allowed amount of head weight is determined by multiplying the tail weight by 1.91. For example a vessel possessing 100 lb (45 kg) of tail weight may possess an additional 191 lb (87 kg) of monkfish heads ($100 \times 1.91 = 191$). A vessel may not possess heads only without possessing the equivalent weight of tails allowed by using the conversion factor.
- (b) **Vessels issued limited access monkfish permits –**
- (1) **Vessels fishing under the monkfish DAS program in the NFMA –**
- (i) **Category A vessels.** A limited access monkfish Category A vessel that fishes exclusively in the NFMA under a monkfish DAS may land up to 1,250 lb (567 kg) tail weight or 3,638 lb (1,650 kg) whole weight of monkfish per DAS (or any prorated combination of tail weight and whole

weight based on the conversion factor for tail weight to whole weight of 2.91). For every 1 lb (0.45 kg) of tail only weight landed, the vessel may land up to 1.91 lb (0.87 kg) of monkfish heads only, as described in paragraph (a) of this section.

- (ii) **Category B vessels.** A limited access monkfish Category B vessel that fishes exclusively in the NFMA under a monkfish DAS may land up to 600 lb (272 kg) tail weight or 1,746 lb (792 kg) whole weight of monkfish per DAS (or any prorated combination of tail weight and whole weight based on the conversion factor for tail weight to whole weight of 2.91). For every 1 lb (0.45 kg) of tail only weight landed, the vessel may land up to 1.91 lb (0.87 kg) of monkfish heads only, as described in paragraph (a) of this section.
- (iii) **Category C vessels.** A limited access monkfish Category C vessel that fishes exclusively in the NFMA under a monkfish-only DAS may land up to 1,250 lb (567 kg) tail weight or 3,638 lb (1,650 kg) whole weight of monkfish per DAS (or any prorated combination of tail weight and whole weight based on the conversion factor for tail weight to whole weight of 2.91). A limited access monkfish Category C vessel that fishes exclusively in the NFMA under both a monkfish and NE multispecies DAS may possess and land an unlimited amount of monkfish. For every 1 lb (0.45 kg) of tail only weight landed, the vessel may land up to 1.91 lb (0.87 kg) of monkfish heads only, as described in paragraph (a) of this section.
- (iv) **Category D vessels.** A limited access monkfish Category D vessel that fishes exclusively in the NFMA under a monkfish-only DAS may land up to 600 lb (272 kg) tail weight or 1,746 lb (792 kg) whole weight of monkfish per DAS (or any prorated combination of tail weight and whole weight based on the conversion factor for tail weight to whole weight of 2.91). A limited access monkfish Category D vessel that fishes exclusively in the NFMA under both a monkfish and NE multispecies DAS may possess and land an unlimited amount of monkfish. For every 1 lb (0.45 kg) of tail only weight landed, the vessel may land up to 1.91 lb (0.87 kg) of monkfish heads only, as described in paragraph (a) of this section.

(2) ***Vessels fishing under the monkfish DAS program in the SFMA –***

- (i) **Category A, C, and G vessels.** A vessel issued a limited access monkfish Category A, C, or G permit that fishes under a monkfish DAS in the SFMA may land up to 700 lb (318 kg) tail weight or 2,037 lb (924 kg) whole weight of monkfish per DAS (or any prorated combination of tail weight and whole weight based on the conversion factor for tail weight to whole weight of 2.91). For every 1 lb (0.45 kg) of tail-only weight landed, the vessel may land up to 1.91 lb (0.87 kg) of monkfish heads only, as described in paragraph (a) of this section.
- (ii) **Category B, D, and H vessels.** A vessel issued a limited access monkfish Category B, D, or H permit that fishes under a monkfish DAS in the SFMA may land up to 575 lb (261 kg) tail weight or 1,673 lb (759 kg) whole weight of monkfish per DAS (or any prorated combination of tail weight and whole weight based on the conversion factor for tail weight to whole weight of 2.91). For every 1 lb (0.45 kg) of tail-only weight landed, the vessel may land up to 1.91 lb (0.87 kg) of monkfish heads only, as described in paragraph (a) of this section.
- (iii) **Category F vessels.** Vessels issued a Category F permit are subject to the possession and landing restrictions specified at § 648.95(g)(1).
- (iv) **Administration of landing limits.** A vessel owner or operator may not exceed the monkfish trip limits as specified in paragraphs (b)(2)(i) through (iii) of this section per monkfish DAS fished, or any part of a monkfish DAS fished.

(3) *Category C, D, F, G, and H vessels fishing under the multispecies DAS program –*

(i) **NFMA.** Unless otherwise specified in paragraph (b)(1) of this section, a vessel issued a limited access monkfish Category C permit that fishes under a NE multispecies DAS, and not a monkfish DAS, exclusively in the NFMA may land up to 900 lb (408 kg) tail weight or 2,619 lb (1,188 kg) whole weight of monkfish per DAS (or any prorated combination of tail weight and whole weight based on the conversion factor for tail weight to whole weight of 2.91). A vessel issued a limited access monkfish Category D permit that fishes under a NE multispecies DAS, and not a monkfish DAS, exclusively in the NFMA may land up to 750 lb (340 kg) tail weight or 2,183 lb (990 kg) whole weight of monkfish per DAS (or any prorated combination of tail weight and whole weight based on the conversion factor for tail weight to whole weight of 2.91). A vessel issued a limited access monkfish Category C, D, or F permit participating in the NE Multispecies Regular B DAS program, as specified under § 648.85(b)(6), is also subject to the incidental landing limit specified in paragraph (c)(1)(i) of this section on such trips.

(ii) **SFMA –**

(A) **Category C, D, and F vessels.** Limited access monkfish Category C, D, or F vessels that fish any portion of a trip under a NE multispecies DAS in the SFMA, and not a monkfish DAS, may land up to 300 lb (136 kg) tail weight or 873 lb (396 kg) whole weight of monkfish per DAS if trawl gear is used exclusively during the trip, or 50 lb (23 kg) tail weight or 146 lb (66 kg) whole weight per DAS if gear other than trawl gear is used at any time during the trip. Category C, D, and F vessels participating in the NE Multispecies Regular B DAS program, as specified under § 648.85(b)(6), are also subject to the incidental catch limit specified in paragraph (c)(1)(ii) of this section. For the purpose of converting whole weight to tail weight, the amount of whole weight possessed or landed is divided by 2.91. For every 1 lb (0.45 kg) of tail only weight landed, the vessel may land up to 1.91 lb (0.87 kg) of monkfish heads only, as described in paragraph (a) of this section.

(B) **Category G and H vessels.** Limited access monkfish Category G and H vessels that fish any portion of a trip under a NE multispecies DAS in the SFMA, and not under a monkfish DAS, are subject to the incidental catch limit specified in paragraph (c)(1)(ii) of this section. Category G and H vessels participating in the NE Multispecies Regular B DAS program, as specified under § 648.85(b)(6), are also subject to the incidental catch limit specified in paragraph (c)(1)(ii) of this section.

(iii) **Transiting.** A vessel that harvested monkfish in the NFMA may transit the SFMA and possess monkfish in excess of the SFMA landing limit provided such vessel complies with the provisions of § 648.94(e).

(4) **Category C, D, F, G, or H vessels fishing under the scallop DAS program.** A Category C, D, F, G, or H vessel fishing under a scallop DAS may land up to 300 lb (136 kg) tail weight or 873 lb (396 kg) whole weight of monkfish per DAS (or any prorated combination of tail weight and whole weight based on the conversion factor for tail weight to whole weight of 2.91). For every 1 lb (0.45 kg) of tail only weight landed, the vessel may land up to 1.91 lb (0.87 kg) of monkfish heads only, as described in paragraph (a) of this section.

(5) **Category C, D, F, G, or H scallop vessels declared into the monkfish DAS program without a dredge on board, or not under the net exemption provision.** Category C, D, G, or H vessels that have declared into the monkfish DAS program and that do not fish with or have a dredge on board, or that are not fishing with a net under the net exemption provision specified in § 648.51(f), are subject to the same

landing limits as specified in paragraphs (b)(1) and (b)(2) of this section, or the landing limit specified in § 648.95(g)(1), if issued a Category F permit. Such vessels are also subject to provisions applicable to Category A and B vessels fishing only under a monkfish DAS, consistent with the provisions of this part.

- (6) **Vessels not fishing under a NE multispecies, scallop, or monkfish DAS.** The possession limits for all limited access monkfish vessels when not fishing under a NE multispecies, scallop, or monkfish DAS are the same as those possession limits applicable to a vessel issued a monkfish incidental catch permit specified under paragraphs (c)(3) through (c)(8) of this section.

(c) **Vessels issued a monkfish incidental catch permit —**

(1) **Vessels fishing under a NE multispecies DAS —**

(i) **NFMA.** A vessel issued a valid monkfish incidental catch (Category E) permit fishing under a NE multispecies DAS exclusively in the NFMA may land up to 300 lb (136 kg) tail weight or 873 lb (396 kg) whole weight of monkfish per DAS, or 25 percent (where the weight of all monkfish is converted to tail weight) of the total weight of fish on board, whichever is less. For the purpose of converting whole weight to tail weight, the amount of whole weight possessed or landed is divided by 2.91. For every 1 lb (0.45 kg) of tail-only weight landed, the vessel may land up to 1.91 lb (0.87 kg) of monkfish heads only, as described in paragraph (a) of this section.

(ii) **SFMA.** If any portion of the trip by a vessel issued a monkfish incidental catch (Category E) permit, or issued a valid limited access Category G or H permit, is fished under a NE multispecies DAS in the SFMA, the vessel may land up to 50 lb (23 kg) tail weight or 146 lb (66 kg) whole weight of monkfish per DAS (or any prorated combination of tail weight and whole weight based on the conversion factor for tail weight to whole weight of 2.91). For every 1 lb (0.45 kg) of tail only weight landed, the vessel may land up to 1.91 lb (0.87 kg) of monkfish heads only, as described in paragraph (a) of this section.

- (2) **Scallop vessels fishing under a scallop DAS.** A scallop vessel issued a monkfish incidental catch (Category E) permit fishing under a scallop DAS may land up to 300 lb (136 kg) tail weight or 873 lb (396 kg) whole weight of monkfish per DAS (or any prorated combination of tail weight and whole weight based on the conversion factor for tail weight to whole weight of 2.91). For every 1 lb (0.45 kg) of tail only weight landed, the vessel may land up to 1.91 lb (0.87 kg) of monkfish heads only, as described in paragraph (a) of this section.

(3) **Vessels fishing with large mesh and not fishing under a DAS —**

(i) A vessel issued a valid monkfish incidental catch limit (Category E) permit or a limited access monkfish permit (Category A, B, C, D, F, G, or H) fishing in the GOM or GB RMAs with mesh no smaller than specified at §§ 648.80(a)(3)(i) and (a)(4)(i), respectively, while not on a monkfish, NE multispecies, or scallop DAS, may possess, retain, and land monkfish (whole or tails) only up to 5 percent (where the weight of all monkfish is converted to tail weight) of the total weight of fish on board. For the purpose of converting whole weight to tail weight, the amount of whole weight possessed or landed is divided by 2.91. For every 1 lb (0.45 kg) of tail only weight landed, the vessel may land up to 1.91 lb (0.87 kg) of monkfish heads only, as described in paragraph (a) of this section.

(ii) A vessel issued a valid monkfish incidental catch (Category E) permit or a limited access monkfish permit (Category A, B, C, D, F, G, or H) fishing in the SNE RMA east of the MA Exemption Area boundary with mesh no smaller than specified at § 648.80(b)(2)(i), while not on

a monkfish, NE multispecies, or scallop DAS, may possess, retain, and land monkfish (whole or tails) only up to 5 percent (where the weight of all monkfish is converted to tail weight) of the total weight of fish on board, not to exceed 50 lb (23 kg) tail weight or 146 lb (66 kg) whole weight of monkfish per day or partial day, up to a maximum of 150 lb (68 kg) tail weight or 437 lb (198 kg) whole weight per trip. For the purpose of converting whole weight to tail weight, the amount of whole weight possessed or landed is divided by 2.91. For every 1 lb (0.45 kg) of tail only weight landed, the vessel may land up to 1.91 lb (0.87 kg) of monkfish heads only, as described in paragraph (a) of this section.

(iii) A vessel issued a valid monkfish incidental catch (Category E) permit or a limited access monkfish permit (Category A, B, C, D, F, G, or H) fishing in the SNE RMA under a Skate Bait Letter of Authorization, as authorized under § 648.322(c), while not on a monkfish, NE multispecies, or scallop DAS, may possess, retain, and land monkfish (whole or tails) only up to 5 percent (where the weight of all monkfish is converted to tail weight) of the total weight of fish on board, not to exceed 50 lb (23 kg) tail weight or 146 lb (66 kg) whole weight of monkfish per day or partial day, up to a maximum of 150 lb (68 kg) tail weight or 437 lb (198 kg) whole weight per trip. For the purpose of converting whole weight to tail weight, the amount of whole weight possessed or landed is divided by 2.91. For every 1 lb (0.45 kg) of tail only weight landed, the vessel may land up to 1.91 lb (0.87 kg) of monkfish heads only, as described in paragraph (a) of this section.

(iv) A vessel issued a valid monkfish incidental catch (Category E) permit or a limited access monkfish permit (Category A, B, C, D, F, G, or H) fishing in the SNE or MA RMAs west of the MA Exemption Area boundary with mesh no smaller than specified at § 648.108(a)(1) while not on a monkfish, NE multispecies, or scallop DAS, may possess, retain, and land monkfish (whole or tails) only up to 5 percent (where the weight of all monkfish is converted to tail weight) of the total weight of fish on board, up to a maximum of 450 lb (204 kg) tail weight or 1,310 lb (594 kg) whole weight of monkfish per trip, unless that vessel is fishing under a Skate Bait Letter of Authorization in the SNE RMA. Such a vessel is subject to the incidental catch limit specified under paragraph (c)(3)(iii) of this section. For the purpose of converting whole weight to tail weight, the amount of whole weight possessed or landed is divided by 2.91. For every 1 lb (0.45 kg) of tail only weight landed, the vessel may land up to 1.91 lb (0.87 kg) of monkfish heads only, as described in paragraph (a) of this section.

(4) **Vessels fishing with small mesh and not fishing under a DAS.** A vessel issued a valid monkfish incidental catch (Category E) permit or a limited access monkfish permit (Category A, B, C, D, F, G, or H) fishing with mesh smaller than the mesh size specified by area in paragraph (c)(3) of this section, while not on a monkfish, NE multispecies, or scallop DAS, may possess, retain, and land only up to 50 lb (23 kg) tail weight or 146 lb (66 kg) whole weight of monkfish per day or partial day, up to a maximum of 150 lb (68 kg) tail weight or 437 lb (198 kg) whole weight per trip. For the purpose of converting whole weight to tail weight, the amount of whole weight possessed or landed is divided by 2.91. For every 1 lb (0.45 kg) of tail weight landed, the vessel may land up to 1.91 lb (0.87 kg) of monkfish heads only, as described in paragraph (a) of this section.

(5) **Small vessels.** A vessel issued a limited access NE multispecies small vessel category permit and a valid monkfish incidental catch (Category E) permit that is less than 30 ft (9.1 m) in length and that elects not to fish under the NE multispecies DAS program, may possess, retain, and land up to 50 lb (23 kg) tail weight or 146 lb (66 kg) whole weight of monkfish per day or partial day, up to a maximum of 150 lb (68 kg) tail weight or 437 lb (198 kg) whole weight per trip. For the purpose of

converting whole weight to tail only weight, the amount of whole weight possessed or landed is divided by 2.91. For every 1 lb (0.45 kg) of tail weight landed, the vessel may land up to 1.91 lb of monkfish heads only, as described in paragraph (a) of this section.

- (6) **Vessels fishing with handgear.** A vessel issued a valid monkfish incidental catch (Category E) permit or a limited access monkfish permit (Category A, B, C, D, F, G, or H) and fishing exclusively with rod and reel or handlines with no other fishing gear on board, while not on a monkfish, NE multispecies, or scallop DAS, may possess, retain, and land up to 50 lb (23 kg) tail weight or 146 lb (66 kg) whole weight of monkfish per day or partial day, up to a maximum of 150 lb (68 kg) tail weight or 437 lb (198 kg) whole weight per trip. For the purpose of converting whole weight to tail weight, the amount of whole weight possessed or landed is divided by 2.91. For every 1 lb (0.45 kg) of tail only weight landed, the vessel may land up to 1.91 lb (0.87 kg) of monkfish heads only, as described in paragraph (a) of this section.
- (7) **Vessels fishing with surfclam or ocean quahog dredge gear.** A vessel issued a valid monkfish incidental catch (Category E) permit and a valid surfclam or ocean quahog permit, while fishing exclusively with a hydraulic clam dredge or mahogany quahog dredge, may possess, retain, and land up to 50 lb (23 kg) tail weight or 146 lb (66 kg) whole weight of monkfish per day or partial day, not to exceed 150 lb (68 kg) tail weight or 437 lb (198 kg) whole weight per trip. For the purpose of converting whole weight to tail weight, the amount of whole weight possessed or landed is divided by 2.91. For every 1 lb (0.45 kg) of tail only weight landed, the vessel may land up to 1.91 lb (0.87 kg) of monkfish heads only, as described in paragraph (a) of this section.
- (8) **Scallop vessels not fishing under a scallop DAS with dredge gear –**
 - (i) **General provisions.** A vessel issued a valid monkfish incidental catch (Category E) permit or a valid limited access Category C, D, F, G, or H permit, and also possessing a valid General Category sea scallop permit or a limited access sea scallop vessel not fishing under a scallop DAS, while fishing exclusively with scallop dredge gear as specified in § 648.51(b), may possess, retain, and land up to 50 lb (23 kg) tail weight or 146 lb (66 kg) whole weight of monkfish per day or partial day, up to a maximum of 150 lb (68 kg) tail weight or 437 lb (198 kg) whole weight per trip, unless otherwise specified in paragraph (c)(8)(ii) of this section. For the purpose of converting whole weight to tail weight, the amount of whole weight possessed or landed is divided by 2.91. For every 1 lb (0.45 kg) of tail only weight landed, the vessel may land up to 1.91 lb (0.87 kg) of monkfish heads only, as described in paragraph (a) of this section.
 - (ii) **Limited access scallop vessels fishing in Sea Scallop Access Areas.** A vessel issued a valid monkfish incidental catch (Category E) permit or a valid limited access Category C, D, F, G, or H permit, and also possessing a limited access sea scallop permit while fishing exclusively with scallop dredge gear as specified in § 648.51(b), and fishing in one of the established Sea Scallop Access Areas specified under § 648.59, may possess, retain, and land up to 300 lb (136 kg) tail weight or 873 lb (396 kg) whole weight of monkfish per day or partial day fished within the boundaries of the Sea Scallop Access Area. Time within the applicable access area, for purposes of determining the incidental catch limit, will be determined through the vessel's VMS unit. For the purpose of converting whole weight to tail weight, the amount of whole weight possessed or landed is divided by 2.91. For every 1 lb (0.45 kg) of tail only weight landed, the vessel may land up to 1.91 lb (0.87 kg) of monkfish heads only, as described in paragraph (a) of this section.

- (d) **Monkfish liver landing restrictions.**

- (1) A vessel authorized to land monkfish under this part may possess or land monkfish livers up to 25 percent of the tail-weight of monkfish, or up to 10 percent of the whole weight of monkfish, per trip, except as provided under paragraph (d)(2) of this section.
- (2) If a vessel possesses or lands both monkfish tails and whole monkfish, the vessel may land monkfish livers up to 10 percent of the whole weight of monkfish per trip using the following weight ratio: $(0.10) \times [(tail\ weight \times 2.91) + (whole\ fish \times 1)]$.
- (e) **Transiting.** A vessel that has declared into the NFMA for the purpose of fishing for monkfish under the less restrictive measures of the NFMA, may transit the SFMA provided that the vessel does not harvest or possess monkfish, or any other fish, from the SFMA, and the vessel's gear is properly stowed and not available for immediate use as defined in § 648.2.
- (f) [Reserved]
- (g) **Other landing restrictions.** Vessels are subject to any other applicable landing restrictions of this part.

[64 FR 54749, Oct. 7, 1999]

Editorial Note: For FEDERAL REGISTER citations affecting § 648.94, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.govinfo.gov.

§ 648.95 Offshore Fishery Program in the SFMA.

- (a) **General.** Any vessel issued a valid monkfish limited access permit is eligible to apply for a Category F permit in order to fish in the Offshore Fishery Program in the SFMA.
 - (1) A vessel issued a Category F permit is subject to the specific provisions and conditions of this section while fishing on a monkfish DAS.
 - (2) A vessel issued a limited access monkfish Category C or D permit that applies for and is issued a Category F permit remains subject to the provisions specific to Category C and D vessels, unless otherwise specified under this subpart F.
 - (3) Limited access Category C or D vessels that apply for and are issued a Category F permit remain subject to the provisions specific to Category C and D vessels, unless otherwise specified under this subpart F.
- (b) **Declaration.** To fish in the Offshore Fishery Program, a vessel must obtain a monkfish limited access Category F permit and fish under this permit for the entire fishing year, subject to the conditions and restrictions specified under this part. The owner of a vessel, or authorized representative, may change the vessel's limited access monkfish permit category within 45 days of the effective date of the vessel's permit, provided the vessel has not fished under the monkfish DAS program during that fishing year. If such a request is not received within 45 days, the vessel owner may not request a change in permit category and the vessel's permit category will remain unchanged for the duration of the fishing year.

- (c) **Offshore Fishery Program Area.** The Offshore Fishery Program Area is bounded on the south by 38° 00' N. lat. and on the north, west, and east by the following coordinates, connected in the order listed by rhumb lines.

Point	N. latitude	W. longitude
1	41°18.6'	66°24.8'
2	40°55.5'	66°38.0'
3	40°45.5'	68°00.0'
4	40°37.0'	68°00.0'
5	40°30.0'	69°00.0'
6	40°22.7'	69°00.0'
7	40°18.7'	69°40.0'
8	40°21.0'	71°03.0'
9	39°41.0'	72°32.0'
10	38°47.0'	73°11.0'
11	38°04.0'	74°06.0'

- (d) **Season.** October 1 through April 30 each year.

- (e) **Restrictions.**

- (1) Except for the transit provisions provided for in paragraph (f) of this section, a vessel issued a valid Category F permit may only fish for, possess, and land monkfish in or from the Offshore Fishery Program Area while on a monkfish DAS.
- (2) A vessel enrolled in the Offshore Fishery Program is restricted to fishing under its monkfish DAS during the season in paragraph (d) of this section.
- (3) A vessel issued a limited access monkfish Category F permit fishing on a monkfish DAS is subject to the minimum mesh size requirements specified in § 648.91(c)(1)(i), (iii) and (iv), as well as the other gear requirements specified in § 648.91(c)(2) and (3).
- (4) A vessel issued a Category F permit must have installed on board an operational VMS unit that meets the minimum performance criteria specified in §§ 648.9 and 648.10 during the entire season established under paragraph (d) of this section. Unless otherwise required to maintain an operational VMS unit under the VMS notification requirements specified at § 648.10(b), a vessel issued a Category F permit may turn off its VMS unit outside of that season.

- (f) **Transiting.** A vessel issued a limited access monkfish Category F permit fishing under a monkfish DAS that is transiting to or from the Offshore Fishery Program Area, described in paragraph (c) of this section, shall have all gear stowed and not available for immediate use as defined in § 648.2.

- (g) **Monkfish landing limits and DAS allocations.**

- (1) A vessel issued a limited access monkfish Category F permit may land up to 1,600 lb (726 kg) tail weight or 4,656 lb (2,112 kg) whole weight of monkfish per monkfish DAS (or any prorated combination of tail weight and whole weight based on the conversion factor for tail weight to whole weight of 2.91).
 - (2) The monkfish DAS allocation for vessels issued a Category F permit shall be equal to the trip limit applicable to the vessel's monkfish limited access permit category divided by the fixed daily possession limit specified in paragraph (g)(1) of this section, and then multiplied by the DAS allocation for limited access monkfish vessels not issued Category F permits, specified under § 648.92(b)(1). For example, if a vessel has a limited access monkfish Category C permit, and the applicable trip limit is 800 lb (363 kg) for this category, and the vessel has an annual allocation of 40 monkfish DAS, then the monkfish DAS allocated to that vessel when issued a Category F permit would be 20 monkfish DAS (800 lb divided by 1,600 lb, multiplied by 40 monkfish DAS equals 20 DAS). Any carryover monkfish DAS will be included in the calculation of monkfish DAS for Category F vessels.
 - (3) A vessel issued a limited access monkfish Category F permit that is fishing under a NE multispecies DAS in the NFMA is subject to the incidental landing limit specified at § 648.94(b)(3).
 - (4) When not fishing on a monkfish DAS, a vessel issued a limited access monkfish Category F permit may fish under the regulations applicable to the monkfish incidental catch (Category E) permit, specified at § 648.94(c).
- (h) **DAS usage by NE multispecies or sea scallop limited access permit holders.** A vessel issued a Category F permit that also has been issued either a NE multispecies or sea scallop limited access permit, and is fishing on a monkfish DAS, is subject to the DAS usage requirements specified in § 648.92(b)(2).

[70 FR 21945, Apr. 28, 2005, as amended at 72 FR 20960, Apr. 27, 2007; 72 FR 53942, Sept. 21, 2007; 74 FR 20557, May 4, 2009; 79 FR 41925, July 18, 2014; 79 FR 52580, Sept. 4, 2014; 88 FR 54499, Aug. 11, 2023]

§ 648.96 FMP review, specification, and framework adjustment process.

- (a) **Annual review and adjustment process.** The NEFMC and MAFMC, the Monkfish Plan Development Team (PDT), and the Monkfish Advisory Panel shall monitor the status of the monkfish fishery and resource.
 - (1) **Monkfish annual SAFE Report.** The PDT shall prepare an annual Stock Assessment and Fishery Evaluation (SAFE) Report for the monkfish fishery. The SAFE Report shall be the primary vehicle for the presentation of updated biological and socio-economic information regarding the monkfish fishery. The SAFE report shall provide source data for any adjustments to the management measures that may be needed for the Councils to meet the goals and objectives of the FMP.
 - (2) **Annual review.** The PDT shall meet at least annually to conduct a review of the monkfish fishery in relation to the goals and objectives specified in the Monkfish FMP, including a review of catch relative to the annual catch targets (ACTs) for each management area. They shall review available data pertaining to discards and landings; DAS and other measures of fishing effort; stock status and fishing mortality rate information, if available; enforcement of and compliance with management measures; and any other relevant information. Based on this review, the PDT shall provide guidance to the NEFMC and MAFMC regarding the need to adjust management measures to better achieve the FMP's goals and objectives. After considering the PDT's guidance, the Council may submit to NMFS its recommendations for changes to management measures, as appropriate, through the

annual framework adjustment process specified in paragraph (a)(3) of this section, the in-season framework adjustment process specified in paragraph (b) of this section, or through an amendment to the FMP.

(3) *Annual framework adjustment procedures.*

- (i) If necessary based on the annual review, the Councils may develop adjustments to management measures to achieve the annual catch target (ACT) for the upcoming fishing year, and may develop other management options to better achieve the goals and objectives of the Monkfish FMP, which may include a preferred option. The Councils must demonstrate through analysis and documentation that any options they develop are expected to meet the goals and objectives of the Monkfish FMP. Additionally, if necessary based on the recommendation of the NEFMC's Scientific and Statistical Committee (SSC), the Councils may recommend measures to revise the ABCs and ACLs for the upcoming fishing year(s) as described in paragraph (c) of this section.
- (ii) The range of options developed by the Councils may include any of the management measures in the Monkfish FMP, including, but not limited to: ACTs; closed seasons or closed areas; minimum size limits; mesh size limits; net limits; liver-to-monkfish landings ratios; annual monkfish DAS allocations and monitoring; trip or possession limits; blocks of time out of the fishery; gear restrictions; transferability of permits and permit rights or administration of vessel upgrades, vessel replacement, or permit assignment; measures to minimize the impact of the monkfish fishery on protected species; gear requirements or restrictions that minimize bycatch or bycatch mortality; transferable DAS programs; changes to the SBRM, including the CV-based performance standard, the means by which discard data are collected/obtained, fishery stratification, the process for prioritizing observer sea-day allocations, reports, and/or industry-funded observers or observer set aside programs; changes to the Monkfish Research Set-Aside Program; and other frameworkable measures included in §§ 648.55 and 648.90.
- (iii) The Councils shall review the options analyzed by the PDT and other relevant information, consider public comment, and submit a recommendation to the Regional Administrator that meets the Monkfish FMP's objectives, consistent with other applicable law. The Councils' recommendation to the Regional Administrator shall include supporting documents, as appropriate, concerning the environmental and economic impacts of the proposed action and the other options considered by the Councils. Management adjustments made to the Monkfish FMP require majority approval of each Council for submission to the Secretary.
 - (A) The Councils may delegate authority to the Joint Monkfish Oversight Committee to conduct an initial review of the options analyzed by the PDT and any other relevant information, consider public comment, and make a recommendation to the Councils.
 - (B) If the Councils submit a recommendation that is consistent with other applicable law but does not meet the Monkfish FMP's goals and objectives, the Regional Administrator may adopt any option developed by the Councils and analyzed by the PDT that has not been rejected by either Council, provided such option meets the Monkfish FMP's goals and objectives, and is consistent with other applicable law. If either the NEFMC or MAFMC has rejected all options, then the Regional Administrator may select any measure that has not been rejected by both Councils and that meets the Monkfish FMP's goals and objectives.

- (iv) If the Councils submit, on or before December 1, a recommendation to the Regional Administrator after one meeting with each Council, and the Regional Administrator concurs with the recommendation, the recommendation shall be published in the FEDERAL REGISTER as a proposed rule, or as otherwise authorized under the Administrative Procedure Act. The Councils may instead submit their recommendation on or before February 1, if they choose to follow the framework process outlined in paragraph (b) of this section and request that the Regional Administrator publish the recommendation as a final rule. If the Regional Administrator concurs with the Councils' recommendation the recommended management measures may be published as a proposed rule or a final rule, in accordance with the Administrative Procedure Act. If the effective date of a final rule to implement the recommended measures falls after the start of the fishing year, fishing may continue under the existing regulations, but any DAS used by a vessel on or after the start of a fishing year shall be counted against any DAS allocation the vessel ultimately receives for that fishing year.
- (v) Following publication of a proposed rule and after receiving public comment, if the Regional Administrator concurs in the Councils' recommendation, a final rule, if possible, shall be published in the FEDERAL REGISTER prior to the start of the next fishing year. If the Councils fail to submit a recommendation to the Regional Administrator by February 1 that meets the goals and objectives of the Monkfish FMP, the Regional Administrator may implement through rulemaking in accordance with the Administrative Procedure Act one of the options reviewed and not rejected by either Council, provided the option meets the goals and objectives of the Monkfish FMP, and is consistent with other applicable law.

(b) ***Within-season management action.*** At any time, the Councils or the Joint Monkfish Oversight Committee (subject to the approval of the Councils' Chairmen) may initiate action to add or adjust management measures if it is determined that action is necessary to meet or be consistent with the goals and objectives of the Monkfish FMP.

(1) ***In-season Framework adjustment procedures.***

- (i) Framework adjustments shall require at least one initial meeting of the Joint Monkfish Oversight Committee or one of the Councils (the agenda must include notification of the framework adjustment proposal) and at least two final Council meetings, one at each Council. The Councils shall provide the public with advance notice of the availability of both the proposals and the analysis, and opportunity to comment on them prior to the first of the two final Council meetings. Framework adjustments and amendments to the Monkfish FMP require majority approval of each Council for submission to the Secretary.
- (ii) Recommended adjustments to management measures must come from the categories specified under paragraph (a)(3)(i) of this section, including specification of ABC and ACLs, if necessary.

(2) ***Councils' recommendation.*** After developing management actions and receiving public testimony, the Councils shall make a recommendation to the Regional Administrator. The Councils' recommendation must include supporting rationale and, if management measures are recommended, an analysis of impacts and a recommendation to the Regional Administrator on whether to issue the management measures as a final rule. If the Councils recommend that the management measures should be issued as a final rule, the Councils must consider at least the following four factors and provide support and analysis for each factor considered:

- (i) Whether the availability of data on which the recommended management measures are based allows for adequate time to publish a proposed rule, and whether regulations have to be in place for an entire harvest/fishing season;
 - (ii) Whether there has been adequate notice and opportunity for participation by the public and members of the affected industry in the development of the Councils' recommended management measures;
 - (iii) Whether there is an immediate need to protect the resource or to impose management measures to resolve gear conflicts; and
 - (iv) Whether there will be a continuing evaluation of management measures adopted following their implementation as a final rule.
- (3) **Adjustments for gear conflicts.** The Councils may develop a recommendation on measures to address gear conflict as defined under § 600.10 of this chapter, in accordance with the procedure specified in § 648.55(g) and (h).
- (4) **Action by NMFS.**
- (i) If the Regional Administrator approves the Councils' recommended management measures and determines that the recommended management measures should be issued as a final rule based on the factors specified in paragraph (c)(3)(i) of this section, the Secretary may, for good cause found under the standard of the Administrative Procedure Act, waive the requirement for a proposed rule and opportunity for public comment in the FEDERAL REGISTER. The Secretary, in so doing, shall publish only the final rule. Submission of the recommendations does not preclude the Secretary from deciding to provide additional opportunity for prior notice and comment in the FEDERAL REGISTER.
 - (ii) If the Regional Administrator concurs with the Councils' recommendation and determines that the recommended management measures should be published first as a proposed rule, then the measures shall be published as a proposed rule in the FEDERAL REGISTER. After additional public comment, if NMFS concurs with the Councils' recommendation, then the measures shall be issued as a final rule in the FEDERAL REGISTER.
 - (iii) If the Regional Administrator does not concur, then the Councils shall be notified in writing of the reasons for the non-concurrence.

(c) **Process for setting ABCs and ACLs.**

- (1) The Councils or the PDT may develop options for setting ABC, ACL, and OFL for each monkfish stock, as necessary, as part of the annual review and adjustment process specified in paragraph (a) of this section, or as otherwise deemed necessary following the in-season adjustment process specified in paragraph (b) of this section. These options shall be submitted to the SSC for consideration. The Councils or the PDT may recommend to the SSC that ABC, ACL, and OFL are specified for each monkfish stock for multiple years as determined necessary to best align management with the stock assessment process for this fishery.
 - (i) **ABC recommendation.** The Councils or the PDT shall calculate ABC values for each monkfish stock based on the ABC control rule established in the FMP. These calculations shall be reviewed by the SSC, guided by terms of reference developed by the Councils. The SSC shall either concur with these ABC calculations, or provide alternative recommendations for each stock and describe the elements of scientific uncertainty used to develop its

recommendations. If the SSC concurs with the ABC calculations, the revised ABC values are automatically updated and no action by the Councils is necessary. If the SSC provides an alternative recommendation for calculating the ABC than that currently specified in the FMP, the Councils would need to take action through the annual or in-season framework adjustment process specified in paragraphs (a) and (b) of this section, respectively, to implement the SSC's recommendation. The SSC may also consider other related issues specified in the terms of reference developed by the Councils, including, but not limited to, OFLs, ACLs, and management uncertainty.

(ii) **ACL recommendations.** The Councils shall establish ACLs for each management area that are equivalent to the ABCs calculated using the control rule established in the FMP, and reviewed and recommended by the SSC.

(iii) **Timing.** If determined necessary under the annual review process, the Councils shall develop and approve any recommendations for ABCs and ACLs prior to December 31, to the extent possible. Once the Councils have approved the recommended ABCs and ACLs, only if they require adjustments to the ACTs described in paragraph (d) shall they be submitted to NMFS as part of an annual framework adjustment or in-season framework adjustment, as described in paragraphs (a) and (b) of this section, along with any necessary analysis required by applicable law. After receipt of the Councils' recommendation for ACLs, NMFS shall review the Councils' decision and, if consistent with applicable law, implement the ACLs in accordance with the Administrative Procedure Act.

(d) **Accountability Measures (AMs) –**

(1) **Specification of ACTs.** Through the annual review process described in paragraph (a) of this section, or as otherwise determined necessary, the Councils shall specify ACTs for each management area that are set sufficiently below the ACL to account for management uncertainty and prevent the ACL from being exceeded. The ACTs established for each management area shall be the basis for setting management measures (DAS and trip limits), after accounting for incidental catch in non-directed fisheries and discards in all fisheries.

(2) **ACL overages and adjustments –**

(i) **Council action.** The Councils shall revise the ACT for a monkfish stock if it is determined that the ACL was exceeded in any given year, based upon, but not limited to, available landings and discard information. The amount of an ACL overage shall be deducted from the ACT for the corresponding monkfish stock on a pound-for-pound basis. The revised ACT and corresponding management measures (DAS and trip limits) shall be implemented through either the annual or in-season framework adjustment process, specified in paragraphs (a) and (b) of this section, in the second fishing year following the fishing year in which the ACL overage occurred.

(ii) **NMFS action.** If the Councils fail to take appropriate action to correct an ACL overage consistent with paragraph (d)(1)(i) of this section, the Regional Administrator shall implement the required adjustment, as described in paragraph (d)(2)(i) of this section, including the specification of DAS and trip limits using a formulaic approach developed by the PDT, in accordance with the Administrative Procedure Act and other applicable law. Notification of the proposed ACL revision and DAS and/or trip limit adjustments shall be published in the FEDERAL REGISTER no later than January 1, if possible, for implementation on May 1 of the second fishing year following the fishing year in which the ACL overage occurred.

- (e) **Emergency action.** Nothing in this section is meant to derogate from the authority of the Secretary to take emergency action under section 305(c) of the Magnuson-Stevens Act.

[76 FR 30274, May 25, 2011, as amended at 76 FR 81849, Dec. 29, 2011; 80 FR 37196, June 30, 2015]

§ 648.97 Closed areas.

- (a) **Oceanographer Canyon Closed Area.** No fishing vessel or person on a fishing vessel may enter, fish, or be in the area known as Oceanographer Canyon Closed Area (copies of a chart depicting this area are available from the Regional Administrator upon request), as defined by straight lines connecting the following points in the order stated, while on a monkfish DAS:

OCEANOGRAPHER CANYON CLOSED AREA

Point	N. Lat.	W. Long.
(1) OC1	40°10'	68°12'
(2) OC2	40°24'	68°09'
(3) OC3	40°24'	68°08'
(4) OC4	40°10'	67°59'
(5) OC1	40°10'	68°12'

- (b) **Lydonia Canyon Closed Area.** No fishing vessel or person on a fishing vessel may enter, fish, or be in the area known as Lydonia Canyon Closed Area (copies of a chart depicting this area are available from the Regional Administrator upon request), as defined by straight lines connecting the following points in the order stated, while on a monkfish DAS:

LYNDONIA CANYON CLOSED AREA

Point	N. Lat.	W. Long.
(1) LC1	40°16'	67°34'
(2) LC2	40°16'	67°42'
(3) LC3	40°20'	67°43'
(4) LC4	40°27'	67°40'
(5) LC5	40° 27'	67°38'
(6) LC1	40°16'	67°34'

[70 FR 21946, Apr. 28, 2005]