§ 648.82 Effort-control program for limited access vessels.

* * * * *

(b) * * *

(iii) 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, per trip without being subject to DAS restrictions, provided that the amount of cod on board does not exceed the daily cod limit specified in § 648.86(b), up to a maximum of 300 lb (136.1 kg) of cod for the entire trip. Such a vessel is not subject to a possession limit for other NE multispecies.

* * * * *

5. In § 648.86 paragraphs (b)(1)(i), (b)(1)(ii)(A), and (b)(3) are suspended and paragraphs (b)(1)(iv) and (b)(5) are added to read as follows:

§ 648.86 Possession restrictions.

* * * * *

(b) * * *

(iv) Landing limit. Notwithstanding any other provisions of this part, the following measures shall be in effect from August 3, 1999 until January 30, 2000. Except as provided in paragraph (b)(2) of this section, and subject to the call-in provision specified in § 648.10(f)(3)(iii), a vessel fishing under a NE multispecies DAS may land only up to 100 lb (45.4 kg) of cod during the first 24-hour period after the vessel has started a trip on which cod were landed (e.g., a vessel that starts a trip at 6 a.m. may call out of the DAS program at 11 a.m. and land up to a 100 lb (45.4 kg), but the vessel cannot land any more cod on a subsequent trip until at least 6 a.m. on the following day). For each trip longer than 24 hours, a vessel may land up to an additional 100 lbs (45.4 kg) for each additional 24-hour block of DAS fished, or part of an additional 24-hour block of DAS fished, up to a maximum of 500 lb (226.8 kg) per trip (e.g., a vessel that has been called into the DAS program for 48 hours or less, but more than 24 hours, may land up to but no more than 200 lb (90.7 kg) of cod). A vessel that has only been called into part of an additional 24-hour block of a DAS (e.g., a vessel that has been called into the DAS program for more than 24 hours but less than 48 hours) may land up to an additional 100 lb (44.5 kg) of cod for that trip provided that the vessel complies with the following:

(A) The vessel operator does not call-out of the DAS program as described under § 648.10(c)(3) and does not depart from a dock or mooring in port, unless transiting as allowed in paragraph (b)(5) of this section, until the rest of the additional 24-hour block of the DAS has elapsed regardless of whether all of the cod on board is offloaded (e.g., a vessel that has been called into the DAS program for 24 hours, at the time of landing, may land only up to 200 lb (90.7 kg) of cod, provided the vessel does not call-out of the DAS program or leave port until 48 hours have elapsed from the beginning of the trip).

(B) Comply with paragraph (b)(1)(ii)(B) of this section.

(C) Vessels must have at least one standard tote on board. 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.

* * * * *

(D) Transiting. A vessel that has exceeded the cod landing limit as specified in paragraph (b)(1) of this section, and is therefore, subject to the requirement to remain in port for the period of time described in paragraph (b)(1)(iv) of this section may transit to another port during this time, provided that the vessel operator notifies the Regional Administrator (see Table 1 to § 600.502 of this chapter) either at the time the vessel reports its hailed weight of cod or at a later time prior to transiting and provides the following information: vessel name and permit number, destination port, time of departure, and estimated time of arrival. A vessel transiting under this provision must stow its gear in accordance with one of the methods specified in § 648.81(e) and may not have any fish on board the vessel.

* * * * *

6. In § 648.88, paragraph (a)(1) is suspended and paragraph (a)(3) is added to read as follows:

§ 648.88 Open access permit restrictions.

(a) * * *

(3) Notwithstanding any other provisions of this part, the following measures shall be in effect from August 3, 1999 until January 30, 2000. The vessel may possess and land up to 300 lb (136.1 kg) of cod, haddock, and yellowtail flounder, combined, per trip, and unlimited amounts of the other NE multispecies, provided that the amount of cod on board does not exceed the daily cod limit specified in § 648.86(b)(1)(iv), up to a maximum of 300 lb (136.1 kg) of cod for the entire trip, and that the vessel does not use or possess on board gear other than rod and reel or handlines while in possession of, fishing for, or landing NE multispecies, and provided it has at least one standard tote on board.

* * * * *

[FR Doc. 99–19851 Filed 7–29–99; 4:00 pm]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 990723203–9203–01; I.D. 061599A]

RIN 0648–AM65

Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Framework Adjustments 27 and 30 to the Northeast Multispecies Fishery Management Plan (FMP)

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

ACTION: Final rule.
SUMMARY: NMFS issues this final rule to implement some of the measures contained in Framework 30 of the Northeast Multispecies Fishery Management Plan (FMP). This final rule implements a Georges Bank (GB) cod landing limit (daily landing limit) of 2,000 lb (907 kg) per day-at-sea (DAS) starting August 15, 1999, with a maximum possession limit (possession limit) of 20,000 lb (9,072 kg) per trip. This rule also authorizes the Administrator, Northeast Region, NMFS (Regional Administrator), to adjust the daily landing limit and possession limit depending on the risk of exceeding the target total allowable catch (TAC), or not catching 75 percent of the TAC for GB cod. This action is necessary to reduce the GB cod fishing mortality rate (F) to achieve the rebuilding goals of the FMP. This rule also corrects the final rule implementing Framework Adjustment 27 to the FMP, which was published on May 5, 1999, and provides revised definitions for purposes of clarification for pelagic longline gear and pelagic hook and line gear.


 Địa chỉ: Copies of the Framework 30 document, its Regulatory Impact Review, the Environmental Assessment, and other supporting documents are available from Paul J. Howard, Executive Director, New England Fishery Management Council, 5 Broadway (Route 1), Saugus, MA 01906-1036.


SUPPLEMENTARY INFORMATION:

Background

Amendment 7, which became effective on July 1, 1996, established a procedure for reviewing annually the FMP and making adjustments to management measures to achieve the rebuilding objectives. The New England Fishery Management Council (Council) conducted a review during December 1998 and January 1999 for the May 1999 fishing year, and submitted proposed measures contained in Framework 27 to address the severely depleted Gulf of Maine (GOM) cod stock. The final rule implementing Framework 27 was published on May 5, 1999 (64 FR 24066). In Framework 27, the Council was unable to complete development of measures to reduce F on GB cod by the necessary 22 percent to achieve the F0.1 objective for that stock for the 1999 fishing year, as indicated in the Multispecies Monitoring Committee’s annual report. Framework 30, therefore, is a continuation of the annual adjustment for the multispecies fishery for May 1999 through April 2000, initiated with Framework 27.

Approved Measures

This rule establishes a daily landing limit of 2,000 lb (907 kg) per DAS, with a possession limit of 20,000 lb (9,072 kg) per trip, on vessels enrolled in the GOM Cod Trip Limit Exemption Program. NMFS is approving these measures to reduce the GB cod fishing mortality rate (F) and increase the chances of achieving the rebuilding targets of the FMP. This rule also authorizes the Regional Administrator to reduce the allowable cod daily landing limit and possession limit for GB cod, when 75 percent of the target TAC for that stock is projected to be reached. The lower cod daily landing limit and possession limit would be calculated to keep landings below the target TAC.

This rule also implements a technical change to clarify the Council’s intent of Framework 27 by removing language that would require gear stowage for vessels transiting the GOM/GB Inshore Restricted Roller Gear Area with roller gear in excess of 12 inches (30.48 cm) in diameter. The Council voted to recommend this change from the proposed rule for Framework 27 during the Council meeting on April 15, 1999, citing the need to relieve a burdensome restriction that requires all vessels, before transiting the area, to stow gear in which the diameter of any part of the trawl footrope (including discs, rollers, or rock hoppers) exceeds the minimum size authorized in the GOM/GB Inshore Restricted Roller Gear Area. However, since the comment period for Framework 27 closed on April 13, 1999 (64 FR 14846, March 29, 1999), and the Council did not address the matter until after that time, the measure could not be incorporated into the final rule for Framework 27. The final rule for Framework 27 was published on May 5, 1999 (64 FR 24066). This rule deletes the Restricted Area transiting provision in § 648.80(a)(2)(iv) in response to the Council’s clarification of its intent in Framework 27.

In addition, "exempted gear," as defined at § 648.2, means gear that is deemed to be not capable of catching Northeast multispecies, and includes: Pelagic hook or longline gear, spears, rakes, diving gear, cast nets, tongs, harpoons, weirs, dipnets, stop nets, pound nets, pelagic gillnets, pots and traps, purge seines, shrimp trawls (with a properly configured grate), surf clams and ocean quahog dredges, and midwater trawls. For clarification purposes, this rule replaces the definition of “pelagic hook or longline gear” with two definitions: one for “Pelagic longline gear” and another for “pelagic hook and line gear.”

The preamble to the final rule implementing Framework 27 correctly indicated that scallop dredge gear is considered exempted gear in the newly closed areas in Framework 27 when vessels are fishing under a scallop DAS, provided that the vessel does not retain any regulated multispecies during any part of a trip (see 64 FR 24067, May 5, 1999, column 3, under Area Closures and Exemptions). The Council specifically clarified that “newly closed areas” refer only to the Rolling Closure Areas specified in Framework 27, as well as the Cashes Ledge Closure Area. It did not refer to Closed Areas I and II, the Nantucket Lightship Closed Area, or the Western GOM Area Closure. However, the regulatory text for Framework 27 at § 648.81(i)(2) incorrectly indicated that vessels fishing under scallop DAS are exempt from the Western GOM closure. The inadvertent inclusion of scallop dredge gear in the list of exemptions for the Western GOM is being corrected by this action, in accordance with the intent of Framework Adjustment 27. Because scallop dredge gear is not considered exempted gear in the Western GOM Area Closure, it is removed from the list of exemptions at § 648.81(i)(2).

Disapproved Measure

The framework action, as proposed by the Council, included a large 30-day GB closure area off Cape Cod. The Council intended that this closure area would be effective, if possible, in June 1999 but recognized that the measure might be implemented in July 1999. Analysis for both months was included in the documentation for the action and showed that a closure in June 1999 was expected to reduce mortality of GB cod by about 11 percent, and by 8 percent for a July 1999 closure. This option was selected based on an optimistic assumption of no effort displacement occurring as the result of a 30-day closure. An alternative, a 30-day closure which simulated possible displacement, showed a 2.7 percent mortality
reduction from a June 1999 closure, and
less than 2.7 percent for July 1999.
Because implementation of this action
could not occur within the months
analyzed in the framework documents,
the GB closure provision is disapproved
since the conservation basis for the
closure diminishes with time as
concentrations of cod disperse after the
spring spawning period.
The effect of this disapproval is that
the 22-percent reduction of F for GB
cod will need to be achieved solely by
the daily landing limit and possession
limit, which may have to be reduced by
the RA sooner in the absence of an area
closure. However, if displacement
would have been extensive during a
June or July 1999 closure, then most of
the reduction of F would have still been
accomplished by the daily landing limit
and possession limit. Because larger
offshore vessels tend to be affected more
by a daily landing limit, and small
inshore vessels by inshore area closures,
the differential impact on these sectors
may be changed, at least slightly.

Abbreviated Rulemaking
NMFS is making these revisions to the
regulations under the framework
abbreviated rulemaking procedure
codified at 50 CFR part 648, subpart F.
This procedure requires the Council,
when making specifically allowed
adjustments to the FMP, to develop and
analyze the actions over the span of at
least two Council meetings, at which
discussions are accepted. The Council
must provide the public with
advance notice of both the framework
proposals and the associated analyses,
and provide an opportunity to comment
on them specifically, prior to and at the
second Council meeting. Upon review of
the analyses and public comments,
the Council may recommend to the
Regional Administrator that the
measures be published as a final rule, or
as a proposed rule, if additional public
comment is necessary.

The initial and final meetings for
Framework 27 were on December 10,
1998, and January 27-28, 1999,
respectively. These meetings the
Council focused its efforts on
developing measures to reduce fishing
effort on GOM cod, which the best
scientific information available indicated was collapsing. To avoid any
delay in implementing management
measures to protect GOM cod, the
Council initiated Framework 30 to
address GB cod. The initial and final
meetings for Framework 30 were
February 24-25, 1999, and April 14-15,
1999, respectively. The Council’s
Groundfish Committee and Industry
Advisory Panel also held meetings and
took public comment on the proposals
on March 22 and 23, 1999, respectively.

At the joint meeting of the committee
and advisory panel, which followed the
initial framework meeting, the Council
received a new proposal for GB cod
from a group of fishing industry
representatives. Because the industry
proposal was in the preliminary stages
of development, the Council decided
that it could not delay further the
implementation of GB cod protection
measures and continued development of
Framework 30.

Comments and Responses
Documents summarizing the
Council’s proposed action and the
analysis of biological, economic, and
social impacts of this and alternative
actions were available for public review
1 week prior to the final meeting, as
required under the framework
adjustment process. Written comments
were accepted up to and during that
meeting.

Comment 1: Many members of the
fishing industry, representing all of the
major gear sectors, spoke out against the
use of a daily landing limit because it
would cause discards, be difficult and
costly to enforce, and not necessarily
produce the desired result.
Response: The Council considered a
wider range of alternatives to achieve the
FMP objective of a 22-percent reduction
in F. It adopted the GB cod daily
landing limit as a contingency measure,
which is being implemented under this
rule, since the alternative proposal
contained in Framework 31 will not be
voted on by the Council and submitted
to NMFS by August 15, 1999. The
Council originally selected August 15,
1999, as the anticipated date for Council
approval and NMFS implementation of
Framework 31 that would supersede the
GB cod daily landing limit. The Council
chose this measure because, unlike area
closures and DAS reductions, the daily
landing limit focuses the needed
conservation restrictions on the vessels
targeting cod, with minimal impact on
vessels targeting other regulated species.
The Council did not include a running
clock provision, partly because of
enforceability concern and the
possibility that it would enable vessels
to circumvent the conservation benefits
of Framework 30. By including both a
daily landing limit and a possession
limit, the Council reduced the potential
for discards, especially when vessels
that exceed the daily landing limit can
reduce the incidental catch of cod. The
Council also provided authority to the
Regional Administrator to adjust the
daily landing limit and possession limit
to reduce the risk of exceeding the target
TAC.

Comment 2: Several members of the
fishing industry, as well as
representatives of an organization
claiming at least 500 supporters, asked
the Council to seek a closure of the
multispecies fishery on GB in May,
through emergency action by the
Secretary of Commerce. The
commenters expressed concern that not
implementing such a measure prior to
the June-July peak period of cod
landings would result in a succession of
more severe restrictions in the future to
achieve the same reductions in F.
Response: The Council and NMFS
determined that the present
circumstances did not meet the
requirements for an emergency action,
and that the Council could not justify
circumventing the normal framework
process that allows all the affected
public to comment on the alternatives
and analysis of impacts. However, once
it became apparent that the effective
date of this action would not occur prior
to mid-July, the conservation benefits
accrued from the proposed GB closure
no longer justified the administrative
and industry burden associated with
such a closure. Thus, this measure is
disapproved. NMFS believes that the
daily landing limit and possession limit
and the adjustment mechanism
implemented under this action will
ensure that the 1999 fishing year target
TAC is not exceeded.

Comment 3: Members of the affected
fishing industry and their
representatives urged the Council to
consider this proposal and develop it as
a separate framework adjustment.
Framework 31. If Framework 31 had
been adopted and implemented when
the Council originally intended, it
would have superseded the GB cod
limits scheduled to take effect on
However, at the final meeting for
Framework 31, on May 26-27, 1999, a
review of the analysis indicated that the
proposal may not achieve the intended
goals. Thus, no further action was taken
to approve Framework 31.

Comment 4: Several members of the
fishing community on Cape Cod stated
that the alternatives under consideration
by the Council would impact
This final rule has been determined to be not significant for the purposes of E.O. 12866.

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

Fisheries, Fishing, Reporting and recordkeeping requirements.


Penelope D. Dalton,
Assistant Administrator for Fisheries, National Marine Fisheries Service.

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

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

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

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

2. In § 648.2, the definition for “Pelagic hook or longline gear” is removed, and the definitions for “Pelagic hook and line gear” and “Pelagic longline gear” are added, in alphabetical order, to read as follows:

§ 648.2 Definitions.

* * * * *

Pelagic hook and line gear means handline or rod and reel gear that is designed to fish for, or that is being used to fish for, pelagic species, no portion of which is designed to be or is operated in contact with the bottom at any time. Pelagic longline gear means fishing gear that is not fixed, nor designed to be fixed, nor anchored to the bottom and that consists of monofilament main line (as opposed to a cable main line) to which ganguins are attached.

* * * * *

3. In § 648.14, paragraphs (c)(19), (c)(23), and (c)(24) are revised, and a new paragraph (c)(26) is added, to read as follows:

§ 648.14 Prohibitions.

(c) * * *

(19) Fail to comply with the exemption specifications as described in § 648.86(b)(4).

* * * * *

(23) Fail to enter port and call-out of the DAS program no later than 14 DAS after starting a multispecies DAS trip (i.e., the time a vessel leaves port or when the vessel received a DAS authorization number, whichever comes first), as specified in § 648.10(f)(3), unless otherwise specified in § 648.86(b)(1)(ii), or unless the vessel is fishing under the cod exemption specified in § 648.86(b)(4).

* * * * *

(26) Fish for, land or possess cod in excess of the cod trip landing and/or maximum possession limits specified in or pursuant to § 648.86(b)(2).

* * * * *

4. In § 648.80, paragraph (a)(2)(iv) is revised to read as follows:

§ 648.80 Regulated mesh areas and restrictions on gear and methods of fishing.

(a) * * *

(ii) Rockhopper and roller gear restrictions. For all trawl vessels fishing in the GOM/GB Inshore Restricted Roller Gear Area, the diameter of any part of the trawl footrope, including discs, rollers, or rockhoppers must not exceed 12 inches (30.48 cm). The GOM/GB Inshore Restricted Roller Gear Area is defined by straight lines connecting the following points in the order stated:

* * * * *

5. In § 648.81, paragraphs (a)(2)(ii) and (i)(2) are revised to read as follows:

§ 648.81 Closed areas.

(a) * * *

(ii) Western GOM Area Closure. * * *

(2) Paragraph (i)(1) of this section does not apply to persons on fishing vessels or fishing vessels that meet the criteria in paragraph (g)(2)(ii) or (iii) of this section.

* * * * *

6. In § 648.86, paragraph (b)(1) heading and the first sentence of paragraph (b)(1)(i) are revised, paragraph (b)(2) is redesignated as paragraph (b)(4), and a new paragraph (b)(2) is added to read as follows:

§ 648.86 Landing and possession restrictions.

* * * * *

(b) * * *

(1) Gulf of Maine Cod Landing Limit. (i) Except as provided in paragraphs (b)(1)(ii) and (b)(4) of this section, and subject to the cod landing limit call-in provision specified at § 648.10(f)(3)(ii), a vessel fishing under a NE multispecies DAS may land up to
200 lb (90.7 kg) of cod per DAS, or any part of a DAS, unless otherwise specified in this paragraph.

(2) Georges Bank Cod Landing and Maximum Possession Limits. For the 1999 fishing year, beginning August 15, 1999, and

(i) For each fishing year thereafter, beginning on May 1, a vessel that is exempt from the landing limit described in paragraph (b)(1) of this section fishing under a NE multispecies DAS may land only up to 2,000 lb (907.2 kg) of cod per DAS, or any part of a DAS, up to a maximum possession limit of 20,000 lb (9,071.8 kg) per trip, unless otherwise specified pursuant to paragraph (b)(2)(i) of this section. The vessel must have a standard tote on board. Cod on board a vessel subject to these landing and maximum possession limits must be separated from other species of fish and stored so as to be readily available for inspection.

(ii) When the Regional Administrator projects that 75 percent of the target TAC will be harvested (8.9 million lb (4,012 mt) for the 1999 fishing year), NMFS may publish a notification in the Federal Register that, as of a specific date, the landing and/or maximum possession limits specified in paragraph (b)(2) of this section are reduced to a level calculated to keep landings below the target TAC based on the risk of exceeding the target TAC. Cod on board a vessel subject to these landings and maximum possession limits must be separated from other species of fish and stored so as to be readily available for inspection.

(iii) Paragraph (b)(2)(i) of this section notwithstanding, between January 1, and April 30 of each fishing year, if the Regional Administrator projects that less than 75 percent of the target TAC (8.9 million lb (4,012 mt) for the 1999 fishing year) will be harvested by April 30, of the fishing year, NMFS may publish a notification in the Federal Register that, as of a specific date, the landings and/or maximum possession limits are increased to the amount that the Regional Administrator projects will be sufficient to allow harvesting of up to 8.9 million lb (4,012 mt) for the 1999 fishing year by April 30, 2000.