

were prepared by the local governments in St. Paul and St. George, with assistance from NMFS officials.

Executive Order 13084—Consultation and Coordination with Indian Tribal Governments

E.O. 13084 requires that if NMFS issues a regulation that significantly or uniquely affects the communities of Indian tribal governments and imposes substantial direct compliance costs on those communities, NMFS must consult with those governments, or the Federal government must provide the funds necessary to pay the direct compliance costs incurred by the tribal governments. This action does not impose substantial direct compliance costs on the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this action.

Nonetheless, NMFS took several steps to work with affected tribal governments to prepare and implement the proposed action. These steps included discussions on subsistence needs and mechanisms to ensure that the harvest is conducted in a non-wasteful manner. NMFS signed cooperative agreements with St. Paul in 2000 and with St. George in 2001 pursuant to section 119 of the MMPA.

Dated: July 12, 2005.

Rebecca Lent,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 050630174–5174–01; ID 062005B]

RIN 0648–AT08

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Framework Adjustment 41

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations to implement Framework Adjustment 41

(FW 41) to the NE Multispecies Fishery Management Plan (FMP). FW 41 management measures were developed by the New England Fishery Management Council (Council) to expand participation in the existing Closed Area (CA) I Hook Gear Haddock Special Access Program (SAP) to all Northeast (NE) multispecies limited access Days-at-Sea (DAS) vessels fishing with hook gear. The proposed action would also modify some of the management measures currently applicable to the Georges Bank (GB) Cod Hook Sector (Sector) vessels when declared into the CA I Hook Gear Haddock SAP by including modification of the season, haddock total allowable catch (TAC), and restricting vessels to fishing only inside the SAP area on trips declared into the SAP. In addition, NMFS proposes to clarify regulations pertaining to fishing in the Eastern U.S./Canada Haddock SAP Pilot Program Area. Specifically, during the time the SAP is open, eligible vessels could choose to fish in the SAP, and fish in the Eastern U.S./Canada Area west of CA II. This action is intended to mitigate the economic and social impacts resulting from Amendment 13 to the FMP and to meet the conservation and management requirements of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

DATES: Comments must be received by August 17, 2005.

ADDRESSES: Comments may be submitted by any of the following methods:

- E-mail: FW41@NOAA.gov. Include in the subject line the following: Comments on the Proposed Rule for Groundfish Framework 41.
- Federal e-Rulemaking Portal: <http://www.regulations.gov>.
- Mail: Paper, disk, or CD-ROM comments should be sent to Patricia A. Kurkul, Regional Administrator, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope “Comments on the Proposed Rule for Groundfish Framework 41.”
- Fax: (978) 281–9135.

Copies of FW 41, its Regulatory Impact Review (RIR), the Initial Regulatory Flexibility Analysis (IRFA), and the Environmental Assessment (EA) are available from Paul J. Howard, Executive Director, New England Fishery Management Council, 50 Water Street, The Tannery B Mill 2, Newburyport, MA 01950. A summary of the IRFA is provided in the Classification section of this proposed rule.

FOR FURTHER INFORMATION CONTACT: Brian Hooker, Fishery Policy Analyst, phone: (978) 281–9220, fax: (978) 281–9135.

SUPPLEMENTARY INFORMATION:

Background

In order to increase the fishing effort on, and yield from healthy stocks, Amendment 13 to the FMP created a structure that allows for development of programs to target healthy fish stocks using Category B DAS. Amendment 13 included four specific SAPs, only two of which were approved and implemented on May 1, 2004. The regulations implementing FW 40–A (69 FR 67780, November 19, 2004) also created opportunities to use Category B DAS, including the CA I Hook Gear Haddock SAP. However, due to insufficient controls on GB cod mortality, which could have led to undermining fishing mortality objectives necessary to end overfishing and rebuild the GB cod stock, the measures for non-Sector vessels proposed in FW 40–A were found to be inconsistent with National Standard 1 and section 303(a)(1)(A) of the Magnuson-Stevens Act, and were thus disapproved. Specifically, the portion of the program pertaining to non-Sector vessels proposed to: Allow participants to fish in the SAP area using either an A or B DAS; count cod catch against the SAP’s incidental cod TAC only when fishing on a B DAS; allow participants to fish both inside and outside the SAP area on the same trip under different gear restrictions; and allow non-DAS groundfish vessels to participate in the SAP. In contrast, regulations pertaining to the Sector vessels were relatively straightforward in that all cod caught by Sector vessels count toward the Sector’s allocation of GB cod, and the same gear restrictions apply both inside and outside of the SAP area on a single trip. The purpose of this action is to revise the CA I Hook Gear Haddock SAP rules to allow participation by non-Sector vessels. This special access program would help mitigate the economic and social impacts caused by the fishing effort reductions that resulted from implementation of Amendment 13.

FW 41 would provide access to the CA I Hook Gear Haddock SAP for all limited access NE multispecies DAS permit holders, including both Sector and non-Sector vessels. Working together, Sector and non-Sector vessel owners who plan to participate in the program have suggested measures to minimize the potential for a derby (race to catch limited quota) fishery. The Council, in FW 41, has specified that

future discussions of measures to minimize the potential of a derby in the CA I Hook Gear Haddock SAP would not necessarily be based on these measures, nor would these proposed measures necessarily constitute a historical basis for future allocation decisions.

Proposed Measures

CA I Hook Gear Haddock SAP

Non-Sector Vessels

FW 41 proposes to modify the CA I Hook Gear Haddock SAP by allowing access to this SAP when fishing under a B DAS (either Regular B or Reserve B) for vessels with a NE multispecies limited access DAS permit, provided the vessel fishes with demersal longline or tub trawl gear. In order to minimize the potential of a derby fishery, participation in the SAP for non-Sector vessels would be restricted to a participation period of November 16 - December 31 for the 2005 fishing year, unless otherwise notified by NMFS. The participation period would alternate each year between Sector and non-Sector participants such that in fishing year 2006 non-Sector vessels would fish during a participation period of October 1 - November 15. The currently approved haddock TAC of 1,000 mt for the SAP would be divided evenly into two quota periods such that the haddock TAC for each quota period would be 500 mt. The SAP would close to all participants when the Administrator, Northeast Region, NMFS (Regional Administrator) projects that the haddock TAC (landings and discards) has been caught. The Regional Administrator may also adjust the start of the second participation period if the 500-mt haddock quota for the first participation period is harvested prior to November 15. Additionally, the Regional Administrator may adjust the 500-mt quota for the second participation period to account for under- or over-harvest of the 500-mt haddock quota (landings and discards) that occurred in the first participation period. Vessels fishing on a trip in which they have declared into the Regular B DAS Pilot Program would be prohibited from fishing in this SAP on the same trip.

In order to ensure that any catch of GB cod taken while using a Category B DAS would not threaten mortality objectives of Amendment 13, non-Sector vessels in the CA I Hook Gear Haddock SAP would be allocated a portion of the GB cod incidental catch TAC. Under this proposed rule, the GB cod incidental catch TACs would be 50 percent, 34 percent, and 16 percent for

the Regular B DAS Pilot Program, the Eastern U.S./Canada SAP, and the CA I Hook Gear Haddock SAP, respectively. Additionally, for the 2005 fishing year the Regional Administrator may estimate any uncaught GB cod incidental catch TAC from the first quarter of the Regular B DAS Pilot Program and add that amount to the second quarter GB cod incidental catch TAC for the Regular B DAS Pilot Program. This action is necessary as the effective date for FW 41, if approved, would occur after the start of the Eastern U.S./Canada Haddock SAP, and the first period for the Regular B DAS Pilot Program (i.e., May 1, 2005). This would leave the second period of the Regular B DAS Pilot Program to be reduced by 15.5 mt and allocated to the CA I Hook Gear Haddock SAP. This figure, 15.5 mt, is equivalent to 16 percent of the GB cod incidental catch TAC at the beginning of the 2005 fishing year (97 mt). This in-season adjustment would only be made for the GB cod incidental catch TAC in the 2005 fishing year.

In order to enable the NMFS Observer Program to administer the deployment of observers in the SAP, a vessel intending to participate in this SAP would be required to notify NMFS by September 1 of its intention to fish in the program that year. This provision was approved for Sector vessels under FW 40-A and would be extended to non-Sector vessels in FW 41. This information is intended to provide the NMFS Observer Program with an estimate of the total number of vessels that intend to participate in the SAP and to plan observer coverage accordingly. If a vessel does not notify the NMFS Observer Program of its intent to participate in the SAP by the required date, it would not be allowed to participate in the SAP during that fishing year. Vessels would be required to notify the NMFS Observer Program by telephone at least 72 hours prior to leaving on a trip to the SAP, and would be required to provide the following information: Vessel name; contact name for coordination of observer deployment; telephone number of contact; and date, time and port of departure. The Regional Administrator would retain the authority to close the CA I Hook Gear Haddock Access Area for the duration of the season if the level of observer coverage is insufficient to project whether continuation of the SAP would undermine the achievement of the objectives of the FMP or the CA I Hook Gear Haddock SAP.

Non-Sector vessels participating in the SAP would be required to use Category B (either Regular B or Reserve B) DAS. Similar to the Sector vessels, all

non-Sector vessels participating in this SAP would be required to be equipped with an approved Vessel Monitoring System (VMS). Vessels would be required to declare into the CA I Hook Gear Haddock SAP via VMS and specify whether Regular B DAS or Reserve B DAS would be used, prior to leaving port on a trip into the SAP. All non-Sector vessels would be required to report their catches (landings and discards) of haddock and cod daily via VMS. Non-Sector vessels that have declared into the CA I Hook Gear Haddock SAP would be prohibited from fishing both inside and outside the SAP area on the same trip and would be exempt from the current limitation on the number of hooks fished inside the SAP area. Non-Sector vessels would be subject to a cod possession and landing limit of 1,000 lb (453.6 kg) per trip. Vessels would not be permitted to discard legal-sized cod prior to reaching the catch limit, and would be required to end their trip if the cod trip limit is achieved or exceeded. There is no flipping provision proposed for this SAP (i.e., vessels may not switch from using Category B to Category A DAS on a trip). For species other than cod, non-Sector vessels would be required to comply with the possession and trip limit restrictions currently specified in the regulations. When the Regional Administrator projects that either the cod incidental catch TAC, or the haddock TAC (landings and discards) has been caught for the CA I Hook Gear Haddock SAP, the SAP would close for the remainder of the fishing period.

Sector Vessels

There are two proposed changes to the current provisions for Sector vessels participating in the CA I Hook Gear Haddock SAP. Under this action, Sector vessels that have declared into the CA I Hook Gear Haddock SAP would be prohibited from fishing both inside and outside the SAP area on the same trip, and Sector vessels would be restricted to a participation period of October 1 - November 15 in the 2005 fishing year. For subsequent fishing years, starting in fishing year 2006, the participation period would alternate each year between Sector and non-Sector participants so that in fishing year 2006, for example, Sector vessels would fish during a participation period of November 16 - December 31. The purpose of the prohibition on fishing inside and outside of the SAP on the same fishing trip is to ensure proper accounting of where fish are caught and ensure the ability of the regulations to be enforced. The provision also would maintain equity between Sector and

non-Sector vessels participating in the SAP. Restricting access to the SAP to a specific period of time within the season is meant to minimize the potential of a derby fishery between Sector and non-Sector vessels. The current haddock TAC of 1,000 mt for the SAP would be divided evenly into two quota periods such that the haddock TAC for each quota period would be 500 mt. This action also proposes to remove the requirement that Sector vessels shall be required to pay for observer coverage if the Regional Administrator determines that funding for observers is inadequate to provide sufficient coverage. This requirement would be removed because it was determined that no additional regulations were necessary to ensure adequate observer coverage for Sector vessels. As stated previously, the Regional Administrator may adjust the start of the second quota period if the 500-mt haddock quota for the first quota period is harvested prior to November 15. Additionally, the Regional Administrator may adjust the 500-mt quota for the second quota period to account for under- or over-harvest of the 500-mt haddock quota (landings and discards) that occurred in the first quota period. Other provisions for Sector vessels fishing in the SAP would remain unchanged.

Finally, current regulations pertaining to access to the Eastern U.S./Canada Haddock SAP Pilot Program and the Eastern U.S./Canada Management Area would be clarified. Regulations at § 648.85(a)(1) and (b)(8) allow fishing in the Eastern U.S./Canada Management Area, and allow fishing in the Eastern U.S./Canada Haddock SAP Area, respectively, and specify rules that pertain to each area. According to these regulations, during the time the SAP is open, eligible vessels may choose to fish in the SAP, and to fish in the Eastern U.S./Canada Area west of CA II. In contrast to these regulations, the regulations at § 648.14(a)(143) and (a)(148) could be broadly interpreted to prohibit fishing in any part of the SAP unless fishing under the SAP rules. The prohibitions were inadvertently written in a broad way that is inconsistent with § 648.85(a)(1) and (b)(8) and the intent of NE Multispecies Framework Adjustment 40-A. These regulations would be clarified through this proposed action.

Classification

At this time, NMFS has not determined that the framework adjustment (FW 41) that this proposed rule would implement is consistent with the national standards of the Magnuson-Stevens Act and other

applicable laws. NMFS, in making that determination, will take into account the data, views, and comments received during the comment period.

This proposed rule has been determined to be not significant for the purposes of Executive Order 12866.

Pursuant to 5 U.S.C. 603, an IRFA has been prepared, which describes the economic impacts that this proposed rule, if adopted, would have on small entities. A description of the reasons why this action is being considered, as well as the objectives of and legal basis for this proposed rule is found in the preamble to this document. There are no Federal rules that may duplicate, overlap, or conflict with the proposed rule. The proposed action would modify the existing specification of GB cod incidental catch TACs to the various programs that have such TACs, modify the management measures for the CA I Hook Gear Haddock SAP to allow participation of non-Sector vessels, and implement measures to minimize potential derby fishing behavior. Current regulations under the FMP allow the development of such measures, provided they are consistent with the FMP objectives.

The proposed alternative to modify the GB cod incidental TACs and provide non-Sector vessel access to the SAP was compared to the No Action alternative. The proposed alternative to minimize derby fishing behavior was compared with both the No Action alternative and an alternative that would limit vessels to starting only two trips into the SAP per week.

The No Action alternative would result in the continuation of the management measures implemented by FW 40-A. Only Sector vessels would be eligible to fish in the SAP, no incidental GB cod TAC would be allocated to the SAP, and there would be no measures to minimize derby fishing behavior.

Description and Estimate of the Number of Small Entities to which this Proposed Rule would Apply

The proposed action would implement changes with the potential to affect any vessel holding a NE multispecies limited access permit (with an allocation of DAS; approximately 1,000 vessels). It is very likely, however, that the proposed measures would impact substantially less than the total number of such permit holders, because the SAP requires participants to use only hook gear, there are relatively few vessels that fish with hook gear, and it is not likely that many vessel owners would switch from using another type of fishing gear to hook gear. Based on this, the EA estimates that there would

be about 60 vessels in total (Sector and non-Sector) that would participate in this SAP.

The Small Business Administration (SBA) size standard for small commercial fishing entities is \$ 3.5 million in gross receipts and would apply to NE multispecies limited access permit holders. Data analyzed for Amendment 13 indicated that the maximum gross receipts for any single commercial fishing vessel in the NE multispecies fishery for the period 1998 to 2001 was \$ 1.3 million. For this reason, each vessel in this analysis is treated as a single entity for purposes of size determination and impact assessment. All commercial fishing entities would fall under the SBA size standard for small commercial fishing entities, and there would be no disproportionate impacts between small and large entities. For the purposes of Executive Order 12866, the proposed action would not be considered significant, because the annual effect on the economy would not meet the threshold criteria of \$100 million and it would not have an adverse material effect on any sector of the economy, productivity, jobs, the environment, public health, or safety, or state, local, or tribal governments or communities.

Economic Impacts of this Proposed Action

The proposed action would reduce the allocation of GB cod to the Regular B DAS Pilot Program in order to establish a GB cod incidental catch TAC for the CA I Hook Gear Haddock SAP. This reallocation of incidental TAC could result in increased economic benefits if the SAP results in a higher yield at lower cost than the Regular B DAS Pilot Program. However, unless the same vessels are the beneficiaries of the reallocation, allowing participation by non-Sector vessels in this SAP would result in a transfer of benefits from one group of vessels to another. The magnitude of the impacts will depend upon the amount of GB cod incidental TAC that is harvested under the Regular B DAS Pilot Program and the timing of the implementation of the SAP measures. There are minimal data to determine the specific impacts of the reallocation on the Regular B DAS Pilot Program or the fishery as a whole. During the first quarter of the 2005 fishing year the Regular B DAS Pilot Program caught a substantial portion of the GB cod incidental catch TAC. This suggests that such a reallocation may limit the Regular B DAS Pilot Program, however, the level of incidental catch during the CA I Hook Gear Haddock SAP season may be different.

The proposed action would implement measures that would allow non-Sector vessels to use hook gear to target haddock in the SAP. In the short term, this opportunity may be important to the profitability of participating vessels and would provide mitigation of the short-term adverse effects of the DAS reductions implemented by Amendment 13. The beneficiaries of the proposed action would be limited to individuals that already use longline gear and individuals that could profitably convert to the use of bottom longline gear. Based upon an estimate of the number of vessels that would join the Sector in 2005, and empirical information, the EA estimates that 40 Sector vessels and 20 non-Sector vessels would participate in the SAP.

Estimated total revenue for Sector and non-Sector participants is \$ 1.3 million and \$ 0.6 million, respectively. Estimated surplus per vessel for Sector and non-Sector participants is \$ 19,300 and \$ 16,600, respectively. These returns are based upon the assumptions of 5,000 lb (2,268 kg) of haddock kept per trip, an incidental cod catch TAC of 14 mt, a total of 441 total trips into the SAP, and the implementation of measures to mitigate derby fishing behavior.

The benefits that would accrue to Sector and non-Sector vessels depend in part on whether measures to prevent a derby are implemented. Dividing the SAP into two time periods and limiting fishing in each period to either Sector or non-Sector vessels reduces benefits to Sector vessels, but provides benefits to non-Sector vessels at the same level. Without measures to minimize the potential of derby fishing, the estimated surplus per participating Sector vessel would be \$29,300 because the Sector vessels would not be limited to a maximum haddock catch of 500 mt. Sector participants would be foregoing potential economic gains in order to minimize derby fishing behavior and competition for the haddock TAC. The economic analysis also noted that there are potential costs of derby fishing, such as price depression, loss of gear through gear conflicts, and the costs of unsafe fishing practices.

In contrast, the non-Sector vessels may be limited by the GB cod incidental catch TAC, with or without measures to address derby fishing. In other words, the constraining factor on the catch of non-Sector vessels may be the GB cod incidental catch TAC, and not the haddock TAC. If non-Sector participants are able to reduce incidental catches of cod and take all of the haddock available to them, the estimated net return per vessel would double.

Dividing the season into two periods has other implications due to the seasonal variations in the availability and price of haddock. Based upon experimental data, catch rates of haddock may be highest in the beginning of the SAP season and subsequently decline, while average haddock prices may increase over the SAP season. The increase in average price may mitigate the effect of a reduced catch rate in the latter part of the SAP season.

It is likely that most or all participating vessels will experience positive economic results. The potential economic benefits of the proposed measures would represent only a small increase in the total value of the Northeast region groundfish sales, but because the landings would be concentrated on Cape Cod, MA (due to the location of Sector members), the SAP could significantly increase landings in Cape Cod over fishing year 2003 levels. It is unknown where the economic benefits that result from the participation of non-Sector vessels will accrue.

Economic Impacts of Alternatives to the Proposed Action

Under the No Action alternative, the regulations for the CA I Hook Gear Haddock SAP would be unchanged, and the only vessels that could participate in the SAP would be members of the Sector. The economic benefits for Sector vessels would be greater under the No Action alternative, but no benefits would accrue to vessels that are not members of the Sector. The net amount of benefits under the No Action alternative would be similar to the amount of economic benefits under the proposed action because, in both cases, the total haddock TAC for the SAP would be the same. Economic benefits of the proposed alternative would be distributed more widely than for the No Action alternative.

Under the No Action alternative, the allocation of GB cod to the Regular B DAS Pilot Program would not be reduced because there would be no GB cod incidental catch TAC established for the CA I Hook Gear Haddock SAP. The transfer of benefits from one group of vessels to another would not occur.

With respect to the measures to reduce derby behavior, the No Action alternative would result in greater economic benefits to the Sector vessels, but such benefits may be reduced by the potential costs that result from a derby-style fishery (i.e., price depression, increased costs as a result of gear conflicts, and potential safety costs). The non-selected alternative would

have limited all participating vessels to taking no more than two trips into the SAP in a calendar week. This limitation potentially would have created an economic advantage for those vessels that are able to take longer, multi-day trips, and therefore would have tended to favor large vessels.

Public Reporting Burden

This proposed rule contains collection of information requirements subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA) that have been approved by OMB under OMB control numbers 0648-0501 and 0648-0502. The current expiration date for the reporting requirements under this collection is June 30, 2008. Public comment on this collection of information was solicited in the proposed rule to Framework Adjustment 40-A to the NE Multispecies FMP (69 FR 55388, September 14, 2004) and in the renewal of the collection of information for OMB control number 0648-0501 (69 FR 61344, October 18, 2004) and OMB control number 0648-0502 (69 FR 61346, October 18, 2004). The public's reporting burden for the collection-of-information requirements includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection-of-information requirements.

The approved reporting requirements for this proposed rule and the estimated average time for a response are as follows:

1. VMS purchase and installation, OMB #0648-0501 (1 hr/response);
2. VMS proof of installation, OMB #0648-0501 (5 min/response);
3. Automated VMS polling of vessel position once per hour when fishing in the Regular B DAS pilot program, OMB #0648-0501 (5 sec/response);
4. Automated VMS polling of vessel position once per hour when fishing in the CA I Hook Gear Haddock SAP, OMB #0648-0501 (5 sec/response);
5. SAP area and DAS use declaration via VMS prior to each trip into a SAP, OMB #0648-0501 (5 min/response);
6. Revised estimate of the area and DAS use declaration via VMS prior to each trip into the CA I Hook Gear Haddock SAP, OMB #0648-0501 (5 min/response);
7. Revised estimate of the notice requirements for observer deployment prior to every trip into the CA I Hook Gear Haddock SAP, OMB #0648-0202 (2 min/response);

8. Daily electronic catch and discard reports of stocks of concern when fishing in the CA I Hook Gear Haddock SAP, OMB #0648-0502, (0.25 hr/response).

Notwithstanding any other provision of the law, no person is required to respond to, and no person shall be subject to a penalty for failure to comply with a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: July 13, 2005.

William T. Hogarth,

*Assistant Administrator for Fisheries,
National Marine Fisheries Service.*

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

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 § 648.10, paragraphs (b)(3)(i)(C) and (b)(3)(i)(D) are revised to read as follows:

§ 648.10 DAS notification requirements.

* * * * *

(b) * * *

(3) * * *

(i) * * *

(C) Fish under the Regular B DAS Pilot Program specified at § 648.85(b)(6); or

(D) Fish in the CA I Hook Gear Haddock SAP specified in § 648.85(b)(7).

* * * * *

3. In § 648.14, paragraphs (a)(143), (a)(148), (c)(67), (c)(68), (c)(70), and (c)(73) through (c)(77) are revised to read as follows:

§ 648.14 Prohibitions.

(a) * * *

(143) If fishing under a NE multispecies DAS, fish in the Eastern U.S./Canada Haddock SAP Pilot Program specified in § 648.85(b)(8), unless declared into the program in accordance with § 648.85(b)(8)(v)(D).

* * * * *

(148) If fishing under a NE multispecies DAS in the Eastern U.S./Canada Haddock SAP Pilot Program specified in § 648.85(b)(8), in the area specified in § 648.85(b)(8)(ii), during the season specified in § 648.85(b)(8)(iv),

fail to comply with the restrictions specified in § 648.85(b)(8)(v).

* * * * *

(c) * * *

(67) If fishing in the CA I Hook Gear Haddock SAP specified in § 648.85(b)(7), fail to comply with the requirements and conditions specified in § 648.85(b)(7)(iv), and (b)(7)(v) or (b)(7)(vi), whichever is applicable.

(68) If fishing in the CA I Hook Gear Haddock Access Area specified in § 648.85(b)(7)(ii), fail to comply with the requirements and conditions specified in § 648.85(b)(7)(iv), and (b)(7)(v) or (b)(7)(vi), whichever is applicable.

* * * * *

(70) If fishing in the CA I Hook Gear Haddock SAP specified in § 648.85(b)(7), fail to comply with the DAS use restrictions specified in § 648.85(b)(7)(iv)(A), and (b)(7)(v)(A) or (b)(7)(vi)(A), whichever is applicable.

* * * * *

(73) If fishing in the CA I Hook Gear Haddock SAP specified in § 648.85(b)(7), fail to comply with the VMS declaration requirement specified in § 648.85(b)(7)(iv)(D).

(74) If fishing in the CA I Hook Gear Haddock SAP specified in § 648.85(b)(7), fail to comply with the gear restrictions specified in § 648.85(b)(7)(iv)(E), and (b)(7)(v)(B) or (b)(7)(vi)(B), whichever is applicable.

(75) If fishing in the CA I Hook Gear Haddock SAP specified in § 648.85(b)(7), fail to comply with the landing limits specified in § 648.85(b)(7)(iv)(H), and (b)(7)(v)(C) or (b)(7)(vi)(C), whichever is applicable.

(76) If fishing in the CA I Hook Gear Haddock SAP specified in § 648.85(b)(7), fail to comply with the reporting requirement specified in § 648.85(b)(7)(v)(D) or (b)(7)(vi)(D), whichever is applicable.

(77) Fish in the CA I Hook Gear Haddock Access Area specified in § 648.85(b)(7)(ii), if that area is closed as specified in § 648.85(b)(7)(iv)(I) or (b)(7)(vi)(F).

* * * * *

4. In § 648.85, the introductory paragraph (a) and paragraphs (b)(5)(ii), (b)(7)(i), (b)(7)(iii), (b)(7)(iv), (b)(7)(v), (b)(8)(v)(A)(2), (b)(8)(v)(A)(3), (b)(8)(v)(B), (b)(8)(v)(C), (b)(8)(v)(E), (b)(8)(v)(H), and (b)(8)(v)(L) are revised, and paragraph (b)(7)(vi) is added to read as follows:

§ 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.

* * * * *

(b) * * *

(5) * * *

(ii) *GB cod.* The incidental TAC for GB cod specified in this paragraph (b)(5), shall be subdivided as follows: 50 percent to the Regular B DAS Pilot Program, described in paragraph (b)(6) of this section; 16 percent to the CA I Hook Gear Haddock SAP, described in paragraph (b)(7) of this section; and 34 percent to the Eastern U.S./Canada Haddock SAP Pilot Program, described in paragraph (b)(8) of this section.

* * * * *

(7) * * *

(i) *Eligibility.* Vessels issued a valid limited access NE multispecies DAS permit are eligible to participate in the CA I Hook Gear Haddock SAP, and may fish in the CA I Hook Gear Haddock Access Area, as described in paragraph (b)(7)(ii) of this section, for the season specified in paragraph (b)(7)(iii) of this section, provided such vessels comply with the requirements of this section, and provided the SAP is not closed according to the provisions specified under paragraphs (b)(7)(iv)(I) or (b)(7)(vi)(F) of this section. Copies of a chart depicting this area are available from the Regional Administrator upon request.

* * * * *

(iii) *Season.* The overall season for the CA I Hook Gear Haddock SAP is October 1 through December 31, which is divided into two participation periods, one for Sector and one for non-Sector vessels. For the 2005 fishing year, the only participation period in which eligible Sector vessels may fish in the CA I Hook Gear Haddock SAP is from October 1 through November 15. For the 2005 fishing year, the only participation period in which eligible non-Sector vessels may fish in the SAP is from November 16 through December 31. For the 2006 fishing year and beyond, these participation periods shall alternate between Sector and non-Sector vessels such that, in fishing year 2006, the participation period for non-Sector vessels is October 1 through November 15 and the participation period for Sector vessels is November 16 through December 31. The Regional Administrator may adjust the start date

of the second participation period prior to November 16 if the haddock TAC for the first participation period specified in paragraph (b)(7)(iv)(G) of this section is harvested prior to November 15.

(iv) *General program restrictions.*

General program restrictions specified in this paragraph (b)(7)(iv) apply to all eligible vessels as specified in paragraph (b)(7)(i) of this section. Further program restrictions specific to Sector and non-Sector vessels are specified in paragraphs (b)(7)(iii), (v), and (vi) of this section.

(A) *DAS use restrictions.* A vessel fishing in the CA I Hook Gear Haddock SAP may not initiate a DAS flip. A vessel is prohibited from fishing in the CA I Hook Gear Haddock SAP while making a trip under the Regular B DAS Pilot Program described under paragraph (b)(6) of this section.

(B) *VMS requirement.* An eligible NE multispecies DAS vessel fishing in the CA I Hook Gear Haddock SAP specified in this paragraph (b)(7) 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.* To be eligible to participate in the CA I Hook Gear Haddock SAP, a vessel must notify the NMFS Observer Program by September 1 of its intent to participate in that year. This notification need not include specific information about the date of the trip. 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; and date, time, and port of departure at least 72 hours prior to the beginning of any trip that it declares into the CA I Hook Gear Haddock SAP, as required in paragraph (b)(7)(iv)(D) of this section, and in accordance with instructions provided by the Regional Administrator.

(D) *VMS declaration.* Prior to departure from port, a vessel intending to participate in the CA I Hook Gear Haddock SAP must declare into the SAP via VMS, and indicate the type of DAS that it intends to fish. A vessel declared into the CA I Hook Gear Haddock SAP may catch fish only on a declared trip in the CA I Hook Gear Haddock Special Access Area described under paragraph (b)(7)(ii) of this section.

(E) *Gear restrictions.* A vessel declared into and fishing in the CA I Hook Gear Haddock SAP may fish with and possess on board demersal longline gear or tub trawl gear only, unless further restricted as specified under paragraph (b)(7)(v)(A) of this section.

(F) *Haddock TAC.* The maximum total amount of haddock that may be caught (landings and discards) in the CA I Hook Gear Haddock SAP Area in any fishing year is 1,000 mt. The maximum amount of haddock that may be caught is divided between the two participation periods as follows: 500 mt for the October 1 - November 15 participation period, and 500 mt for the November 16 - December 31 participation period, as specified in paragraph (b)(7)(iii) of this section. The Regional Administrator may adjust the 500-mt quota for the second participation period to account for under- or over-harvest of the 500-mt haddock quota (landings and discards) that occurred in the first participation period, not to exceed the overall haddock TAC specified in this paragraph (b)(7)(iv)(F).

(G) *Trip restrictions.* A vessel is prohibited from deploying fishing gear or catching fish outside of the CA I Hook Gear Haddock SAP Area on the same fishing trip on which it is declared into the CA I Hook Gear Haddock SAP.

(H) *Landing limits.* For all eligible vessels declared into the CA I Hook Gear Haddock SAP described in paragraph (b)(7)(i) of this section, landing limits for NE multispecies other than cod, which are specified at paragraphs (b)(7)(v)(C) and (b)(7)(vi)(C) of this section, are as specified at § 648.86.

(I) *Mandatory closure of CA I Hook Gear Haddock Access Area.* When the Regional Administrator projects that the haddock TAC specified in paragraph (b)(7)(iv)(G) of this section has been caught, NMFS shall close, through rulemaking consistent with the Administrative Procedure Act, the CA I Hook Gear Haddock SAP Area to all eligible vessels as specified in paragraph (b)(7)(ii) of this section.

(v) *Sector vessel program restrictions.* In addition to the general program restrictions specified at paragraph (b)(7)(iv) of this section, the restrictions specified in this paragraph (b)(7)(v) apply only to Sector vessels declared into the CA I Hook Gear Haddock SAP.

(A) *DAS use restrictions.* Sector vessels fishing in the CA I Hook Gear Haddock SAP may use Category A, Regular B, or Reserve B DAS, in accordance with § 648.82(d).

(B) *Gear restrictions.* A vessel enrolled in the Sector is subject to the gear requirements of the Sector Operations Plan as approved under § 648.87(d).

(C) *Landing limits.* A Sector vessel declared into the CA I Hook Gear Haddock SAP described in paragraph (b)(7)(i) of this section is subject to the cod landing limit in effect under the

Sector's Operations Plan as approved under § 648.87(d).

(D) *Reporting requirements.* The owner or operator of a Sector vessel declared into the CA I Hook Gear Haddock SAP must submit reports to the Sector Manager, with instructions to be provided by the Sector Manager, for each day fished in the CA I Hook Gear Haddock SAP Area. The Sector Manager will provide daily reports to NMFS, including at least the following information: Total weight (lb/kg) of cod and haddock kept, and total weight (lb/kg) of cod and haddock discarded.

(E) *GB cod incidental catch TAC.* There is no GB cod incidental catch TAC specified for Sector vessels declared into the CA I Hook Gear Haddock SAP. All cod caught by Sector vessels fishing in the SAP count toward the Sector's annual GB cod TAC, specified in § 648.87(d)(1)(iii).

(vi) *Non-Sector vessel program restrictions.* In addition to the general program restrictions specified at paragraph (b)(7)(iv) of this section, the restrictions specified in this paragraph (b)(7)(vi) apply only to non-Sector vessels declared into the CA I Hook Gear Haddock SAP.

(A) *DAS use restrictions.* Non-Sector vessels fishing in the CA I Hook Gear Haddock SAP may use Regular B or Reserve B DAS, in accordance with § 648.82(d)(2)(i)(A) and (d)(2)(ii)(A). A non-Sector vessel is prohibited from using A DAS when declared into the SAP.

(B) *Gear restrictions.* A non-Sector vessel declared into the CA I Hook Gear Haddock SAP is exempt from the maximum number of hooks restriction specified in § 648.80(a)(4)(v).

(C) *Landing limits.* A non-Sector vessel declared into the CA I Hook Gear Haddock SAP described in paragraph (b)(7)(i) of this section may not land, fish for, or possess on board more than 1,000 lb (453.6 kg) of cod per trip. A non-Sector vessel is not permitted to discard legal-sized cod prior to reaching the landing limit, and is required to end its trip if the cod trip limit is achieved or exceeded.

(D) *Reporting requirements.* The owner or operator of a non-Sector vessel declared into the CA I Hook Gear Haddock SAP must submit reports via VMS, in accordance with instructions to be provided by the Regional Administrator, for each day fished in the CA I Hook Gear Haddock SAP Area. The reports must be submitted in 24-hr intervals for each day, beginning at 0000 hr and ending at 2400 hr. The reports must be submitted by 0900 hr of the following day. The reports must include at least the following information: Total

weight (lb/kg) of cod and haddock kept, and total weight (lb/kg) of cod and haddock discarded.

(E) *GB cod incidental catch TAC.* The maximum amount of GB cod (landings and discards) that may be cumulatively caught by non-Sector vessels from the CA I Hook Gear Haddock Access Area in a fishing year is the amount specified under paragraph (b)(5)(ii) of this section.

(F) *Mandatory closure of CA I Hook Gear Haddock Access Area due to catch of GB cod incidental catch TAC.* When the Regional Administrator projects that the GB cod incidental catch TAC specified in paragraph (b)(7)(vi)(F) of this section has been caught, NMFS shall close, through rulemaking consistent with the Administrative Procedure Act, the CA I Hook Gear Haddock Access Area to all non-Sector fishing vessels.

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(8) * * *

(v) * * *

(A) * * *

(2) A vessel that is declared into the Eastern U.S./Canada Haddock SAP Pilot Program, described in paragraph (b)(8)(ii) of this section, may catch fish, on the same trip, in the Eastern U.S./Canada Haddock SAP Area and in the CA II Yellowtail Flounder Access Area, described in paragraph (b)(3)(ii) of this section, under either a Category A DAS or a Category B DAS.

(3) A vessel may choose, on the same trip, to catch fish in either/both the Eastern U.S./Canada Haddock SAP Program and the CA II Yellowtail Flounder Access Area, and in that

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 the vessel fishes under a Category A DAS and abides by the VMS restrictions of paragraph (b)(8)(v)(D) of this section.

* * * * *

(B) *VMS requirement.* A NE multispecies DAS vessel fishing in the Eastern U.S./Canada Haddock SAP Program specified under paragraph (b)(8)(ii) 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 72 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)(ii) of this section, as required under paragraph (b)(8)(v)(D) of this section, and in accordance with instructions provided by the Regional Administrator.

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(E) *Gear restrictions.* A NE multispecies vessel fishing in the Eastern U.S./Canada Haddock SAP Pilot Program must use one of the haddock separator trawl nets authorized for the Eastern U.S./Canada Area, as specified in paragraph (a)(3)(iii)(A) of this section.

No other type of fishing gear may be on the vessel when participating on a trip in the Eastern U.S./Canada Haddock SAP Program, with the exception of a flounder net as described in paragraph (a)(3)(iii) of this section, provided the flounder net is stowed in accordance with § 648.23(b).

* * * * *

(H) *Incidental cod TAC.* The maximum amount of GB cod (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 paragraph (b)(5)(i)(B) of this section.

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(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.

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