

DATES: Comments should be received by May 2, 1994.

ADDRESSES: Comments should be sent to Thomas J. Moreau, Director, Technical Services Unit, Inspection Services Division, Office of Trade and Industry Services, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, One Blackburn Drive, Gloucester, MA 01930.
FOR FURTHER INFORMATION CONTACT: Mary A. Estrella or Laurie A. Silva at (508) 281-9285.

SUPPLEMENTARY INFORMATION: NMFS has received written and verbal comments from industry members questioning the necessity of including the scientific names of species in the standards. The comments indicate that it would be more equitable to discontinue the list of species allowed for grading in the standards. For example, the U.S. standards for grades of flounder and sole fillets list 12 species that can be graded using those standards. Currently, there are many more commercial species of flounder and sole not included in the list that cannot be graded using those standards. Although the U.S. general standard for grades of fish fillets can be used for those species, the comments suggest that the two standards should grade the species of flounder and sole equivalently.

The standards contained in 50 CFR parts 261, 262, 263, and 267 were developed using various formats, grading systems, and criteria. For example, part 261, subpart A contains a U.S. Grade A, U.S. Grade B, and substandard. However, part 262, subpart A contains a U.S. Grade A, U.S. Grade B, U.S. Grade C, and substandard. Part 263 contains only U.S. Grade A and U.S. Grade B.

Another variation among the standards is in grading systems. Part 261, subpart A uses the attribute system. Part 262, subpart B uses defect points.

Grading criteria among the standards also differ. Part 261, subpart A, and part 263, subpart A, have two different tables of criteria for determining the grade of the sample unit and sample. Part 263, subpart B grading is expressed numerically on a scale starting at 100, with points deducted. In part 267, grading is expressed numerically on a scale starting at 0, with points added.

The revisions under consideration would decrease the number of standards currently in title 50 CFR from nine standards for grades to one, with three subparts with separate defect tables for the different product types (i.e., whole and dressed, steaks, and fillets). Additionally, they would increase the

number of products eligible for grading under the voluntary seafood inspection program by developing a general standard for grading fish steaks.

NMFS estimates that it takes approximately 3 years to develop and promulgate a standard for grades. NMFS believes that the revisions under consideration would reduce the amount of time it would otherwise take to examine and revise each standard separately.

Therefore, NMFS is requesting written comments on the following questions:

1. Should the species (scientific name) references in the above mentioned U.S. Standards for Grades be removed?
2. What are the benefits or disadvantages to removing the species references from the above standards?
3. What guideline(s) should be used to identify the species of fish permitted for grading in each standard?
4. Should a consolidated U.S. General Standards for Grades of Fish Fillets be developed to include 50 CFR part 263, subparts A through E, and the fillets now eligible for grading under part 267?
5. Should 50 CFR part 261, subparts A and B, part 262, subparts B and C, part 263, subparts A through E, and part 267 be revised at the same time to develop a single general finfish standard with subparts for whole and dressed fish, fish steaks, and fish fillets?

Authority: 7 U.S.C. 1621-1629.

Dated: March 30, 1994.

Charles Karnella,
Acting Program Management Officer,
National Marine Fisheries Service.

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50 CFR Part 651

[Docket No. 9403-80480; LD. 020194A]

Northeast Multispecies Fishery; Possession Limit for Haddock

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

ACTION: Proposed rule.

SUMMARY: NMFS proposes regulations to implement proposed Amendment 6 to the Fishery Management Plan for the Northeast Multispecies Fishery (FMP). These regulations would impose a 500-lb (226.8-kg) possession limit for haddock year-round for all vessels permitted under the FMP and for all vessels in possession of haddock from or in the exclusive economic zone (EEZ), prohibit scallop dredge vessels

from possessing or landing haddock from January through June, and extend the time period of the closure of Closed Area II to 6 months (from January through June), rather than 4 months (February through May) in 1995. The intended effect of this rule is to protect depleted haddock stocks.

DATES: Comments are invited through May 14, 1994.

ADDRESSES: Copies of proposed Amendment 6/Environmental Assessment (EA)/Regulatory Impact Review (RIR) supporting this action may be obtained from Richard B. Roe, Regional Director, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930.

FOR FURTHER INFORMATION CONTACT: Susan Murphy (Fishery Policy Analyst, Northeast Region, NMFS), 508-281-9252.

SUPPLEMENTARY INFORMATION: The primary species in the Northeast multispecies (groundfish) fishery have declined to record or near-record low levels of stock abundance. To correct this, the New England Fishery Management Council (Council) developed Amendment 5 to the FMP, which was approved by NMFS on January 3, 1994, except for two measures (a 5,000-lb (2,268-kg) haddock possession limit and a winter flounder exemption) that were disapproved on September 30, 1993. A final rule to implement approved measures of Amendment 5 was published on March 1, 1994 (59 FR 9872).

Because of the very low abundance of spawning stock biomass for Georges Bank and Gulf of Maine stocks of haddock, and the occurrence of seasonal spawning congregations of haddock in the area known as Closed Area II on Georges Bank, an emergency rule was implemented to protect haddock, beginning January 3, 1994, through April 2, 1994 (59 FR 26, January 3, 1994), and recently extended through June 30, 1994 (59 FR 15656, April 4, 1994). The original emergency rule: (1) imposed a 500-lb (226.8-kg) possession limit for haddock for all vessels permitted under the fishery, except sea scallop dredge vessels, which are prohibited from possessing or landing haddock; (2) closed Closed Area II to all vessels, except lobster pot vessels and scallop dredge vessels, from January through May; (3) expanded the size of Closed Area II by 20 minutes longitude to the west and 15 minutes latitude to the south (along its existing western and southern boundaries, intersecting with the Regulated Mesh Boundary line); (4) suspended the February through May closure of Closed Area I to all vessels

except those using sink gillnet gear; (5) prohibited the transfer of fish at sea; and (6) banned pair trawling in the multispecies fishery.

The final rule implementing Amendment 5, implemented indefinitely: (1) The expansion of the size of Closed Area II; (2) the closure of Area II from February through May in 1994 and 1995, and January through June, in 1996 and thereafter; (3) the suspension of the closure of Closed Area I to all vessels, except vessels using sink gillnet gear; (4) the prohibition on transfer of fish at sea; and (5) the ban on pair trawling. Therefore, proposed Amendment 6 and the current extension to the emergency rule do not contain these measures.

NMFS proposed Amendment 6 under authority of section 304(c)(1)(B) of the Magnuson Fishery Conservation and Management Act (Magnuson Act), which authorizes NMFS to prepare and propose an amendment to an FMP (commonly referred to as a Secretarial amendment), if an amendment submitted by the Council (here, Amendment 5) has been partially disapproved and a revised amendment is not submitted by the Council. A notice of availability for Amendment 6 was published on February 7, 1994 (59 FR 5563), which invited comments through March 26, 1994.

The Council voted at its February 17 meeting to extend the emergency rule to protect haddock through June 30, 1994. As a result, the emergency rule has recently been extended through June 30 by publication in the Federal Register. The extension of the emergency rule maintained the 500-lb (226.8-kg) possession limit for haddock, and extended the time period for the closure of Closed Area II through June, rather than through May as contained in Amendment 5.

Also at the February meeting, the Council voted to begin the resubmission process for the disapproved 5,000-lb (2,268-kg) haddock possession limit with a 750-lb (340-kg) possession limit.

The Council resubmitted a 750-pound (340-kg) haddock possession limit on March 31, 1994. The resubmitted amendment has not yet been accepted for Secretarial review, and its approvability will be determined after public comments are received on the resubmitted amendment and its proposed rule. Also, due to the depleted condition of the haddock stocks, NMFS has determined that it would be inappropriate to allow the 500-lb (226.8-kg) haddock possession limit to lapse beyond the ending effective date of the emergency rule (June 30, 1994). Therefore, NMFS has determined that it

is appropriate to propose Amendment 6 and publish proposed implementing regulations. However, if the Council's resubmitted haddock possession limit is approved and implemented by June 30, 1994, Amendment 6 to the FMP will be withdrawn.

Background

Of particular concern are the haddock stocks on both Georges Bank and in the Gulf of Maine, which are at all-time low levels of abundance. Haddock landings in 1993 were the lowest in recorded history. The stock condition and landings will continue to decline until such time as meaningful measures are implemented to eliminate the overfished condition of the stocks and reduce the exploitation rate to levels that will allow significant rebuilding to take place.

The 1993 spawning stock level for the Georges Bank stock is estimated to be 10,000 metric tons (mt), which is significantly lower than the 130,000 mt required to provide a maximum sustainable yield of 47,000 mt. The most recent assessment of the Georges Bank haddock stock, conducted by the NMFS Stock Assessment Workshop, determined that the fishing mortality rate in 1991 was 0.52. More recent information from a Canadian assessment indicates that the 1992 fishing mortality rate was 0.6 and was probably higher in 1993.

The overfishing definition for the Georges Bank haddock stock is 30 percent of maximum spawning potential, which corresponds to a fishing mortality rate of 0.4. If this fishing mortality rate were achieved, the stock would be maintained at its present low level, but rebuilding would not take place. Rebuilding will only occur when the fishing mortality rate is reduced well below the 0.4 fishing mortality level. Given the depleted condition of the stock, reducing fishing mortality as far below 0.4 as practicable would be the most appropriate risk-averse management approach to promote stock rebuilding.

The Regional Director presented a new analysis of the condition of the stocks to the Council at its November 23 Multispecies Oversight Committee meeting and at its December 8-9 Council meeting and, in response, the Council proposed to implement by emergency rule: A closure of the expanded Closed Area II (beginning January 1, 1994); a prohibition on pair trawling; a haddock possession limit between 500 lbs (226.8 kg) and 1,000 lbs (453.6 kg), at the discretion of the Regional Director, and a request that the Regional Director consider whether

scallop dredges should be prohibited from the haddock spawning area during the closure of Area II.

NMFS concurred with the Council's recommendation and the Regional Director's determination that the haddock possession limit should be 500 lbs (226.8 kg) for the emergency rule. NMFS has initially determined that the same possession limit for haddock contained in the emergency rule is appropriate year-round, and Closed Area II should be closed beginning January each year, through June.

A 500-lb (226.8-kg) haddock possession limit is expected to reduce fishing mortality below 0.4 and foster stock recovery. Although some haddock taken as bycatch will be discarded under the 500-lb (226.8-kg) limit, the 500-lb (226.8-kg) limit is sufficiently low to discourage targeting and high-grading on haddock. The 500-lb (226.8-kg) limit should provide considerable conservation benefits and is expected to pose little biological impact while mitigating adverse effects on the fishing fleets.

Finally, a trip limit is expected to make enforcement of these haddock measures problematic. Compliance with the measures will also be closely monitored and, should enforcement become compromised, appropriate action could be taken by the Regional Director. Amendment 5 prohibits transfer of fish at sea, unless authorized by the Regional Director, requires regulated species to be stored separately from other fish, and requires all vessels to carry a standardized tote. Proposed Amendment 6 would require that haddock be stored separately from the rest of the catch, so the amount of haddock on board can be measured at sea.

The expansion of Closed Area II in time for 1995 will provide additional protection to the concentrations of haddock that occur in the area. The closure of Area II beginning in January rather than February, and ending at the end of June rather than at the end of May, should ensure that haddock beginning to concentrate in the area are provided the fullest protection.

In addition to the longer closure period for Closed Area II, NMFS has initially determined that, because scallop vessels fish in Closed Area II during the period when haddock are congregated to spawn, all scallop dredge vessels should be prohibited from landing or possessing haddock during the closed period to ensure that such vessels do not target these concentrations of haddock. While the Council requested that the Regional Director consider the question of

whether scallop dredges should be prohibited from the area during the closure, instead of a prohibition on landings, the information provided by the Northeast Fisheries Science Center of NMFS does not support precluding scallopers from the closed area. Therefore, the lesser action is proposed to reduce the impact on scallopers, yet provide some protection to spawning haddock.

Classification

The General Counsel of the Department of Commerce has certified to the Small Business Administration that this action will not have a significant economic impact on a substantial number of small entities. Fishing vessels that would be subject to this rule rarely take more than 500 lbs (226.8 kg) of haddock per trip because of the severely depleted status of the stock. Based on the most recent catch statistics, 68 percent of the fishing trips landing groundfish landed no haddock, 84 percent involved less than 500 pounds. The allowable bycatch of 500 lbs (226.8 kg) is expected to discourage vessels from targeting haddock, promoting rebuilding of the stock that will result in long term benefits to the groundfish fleet.

For the purposes of Executive Order 12866, this proposed rule has been determined to be "not significant."

List of Subjects in 50 CFR Part 651

Fishing, Fisheries, Vessel permits and fees.

Dated: April 11, 1994.

Charles Karnella,
Acting Program Management Officer,
National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 651 is proposed to be amended as follows:

PART 651—NORTHEAST MULTISPECIES FISHERY

1. The authority citation for part 651 continues to read as follows:

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

2. Section 651.9, is amended by adding paragraphs (a)(11) and (12) and (e)(33) and (34) to read as follows:

§ 651.9 Prohibitions.

(a) * * *

(11) Land haddock from, or possess haddock on board, a sea scallop dredge vessel as specified in § 651.27(b)(1).

(12) Land, or possess on board a vessel, more than 500 lbs (226.8 kg) of haddock, as specified in § 651.27(b)(2) or violate any of the other provisions specified in § 651.27(b)(2).

* * * * *

(e) * * *

(33) Land haddock from, or possess haddock on board, a sea scallop dredge vessel as specified in § 651.27(b)(1).

(34) Land, or possess on board a vessel, more than 500 lbs (226.8 kg) of haddock as specified in § 651.27(b)(2) or violate any of the other provisions specified in § 651.27(b)(2).

3. Section 651.21 is amended by revising paragraph (b)(3)(i) to read as follows:

§ 651.21 Closed areas.

(b) * * *

(3) *Duration.* (i) No fishing vessel or person on a fishing vessel may fish or be in Closed Area II during the period of January through June, except as specified in paragraph (b)(4) of this section.

* * * * *

4. Section 651.27 is amended by adding paragraph (b) to read as follows:

§ 651.27 Possession limits.

* * * * *

(b) *Haddock possession limits*—(1) *Scallop dredge vessels.* (i) No person owning or operating a scallop dredge vessel issued a permit under this part may land, or possess on board a vessel, haddock, from January 1 through June 30.

(ii) No person operating a scallop dredge vessel may possess haddock in, or harvested from, the EEZ, from January 1 through June 30.

(2) *Other vessels.* (i) No person owning or operating a vessel issued a permit under this part may land, or possess on board a vessel, more than 500 lbs (226.8 kg) of haddock.

(ii) No person may possess on board a vessel more than 500 lbs (226.8 kg) of haddock in, or harvested from, the EEZ.

(iii) Vessels subject to the haddock possession limit shall have on board the vessel at least one standard box or one standard tote.

(iv) The haddock stored on board the vessel shall be retained separately from the rest of the catch and shall be readily available for inspection and for measurement by placement of the haddock in a standard box or standard tote if requested by an authorized officer.

(v) The haddock possession limit is equal to 500 lbs (226.8 kg) or its equivalent as measured by the volume of four standard boxes or five standard totes.

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