

**DEPARTMENT OF COMMERCE****National Telecommunications and Information Administration****47 CFR Part 300**

[Docket Number 110907566–1566–01]

RIN 0660–AA25

**Revision to the Manual of Regulations and Procedures for Federal Radio Frequency Management**

**AGENCY:** National Telecommunications and Information Administration, U.S. Department of Commerce.

**ACTION:** Final rule.

**SUMMARY:** The National Telecommunications and Information Administration (NTIA) hereby makes certain changes to its regulations, which relate to the public availability of the Manual of Regulations and Procedures for Federal Radio Frequency Management (NTIA Manual). Specifically, NTIA updates the version of the Manual of Regulations and Procedures for Federal Radio Frequency Management with which federal agencies must comply when requesting use of the radio frequency spectrum.

**DATES:** This regulation is effective on September 15, 2011. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of September 15, 2011.

**ADDRESSES:** A reference copy of the NTIA Manual, including all revisions in effect, is available in the Office of Spectrum Management, 1401 Constitution Avenue, NW., Room 1087, Washington, DC 20230.

**FOR FURTHER INFORMATION CONTACT:** William Mitchell, Office of Spectrum Management, at (202) 482–8124 or [wmitchell@ntia.doc.gov](mailto:wmitchell@ntia.doc.gov).

**SUPPLEMENTARY INFORMATION:****Background**

NTIA authorizes the U.S. Government's use of the radio frequency spectrum. 47 U.S.C. 902(b)(2)(A). As part of this authority, NTIA developed the NTIA Manual to provide further guidance to applicable federal agencies. The NTIA Manual is the compilation of policies and procedures that govern the use of the radio frequency spectrum by the U.S. Government. Federal government agencies are required to follow these policies and procedures in their use of the spectrum.

Part 300 of title 47 of the Code of Federal Regulations provides information about the process by which

NTIA regularly revises the NTIA Manual and makes public this document and all revisions. Federal agencies are required to comply with the specifications in the NTIA Manual when requesting frequency assignments for use of the radio frequency spectrum. See 47 U.S.C. 901 *et seq.*, Executive Order 12046 (March 27, 1978), 43 FR 13349, 3 CFR 1978 Comp. at 158.

This rule updates section 300.1(b) of title 47 of the Code of Federal Regulations to specify the version of the NTIA Manual with which federal agencies must comply when requesting frequency assignments for use of the radio frequency spectrum. In particular, this rule amends section 300.1(b) by replacing “September 2010” with “May 2011.” See Revision to the Manual of Regulations and Procedures for Federal Radio Frequency Management, 76 FR 18652, 18652–53 (April 5, 2011) (revising the Manual through September 2010). Upon the effective date of this rule, federal agencies must comply with the requirements set forth in the January 2008 edition of the NTIA Manual, as revised through May 2011.

The NTIA Manual is scheduled for revision in January, May, and September of each year and is submitted to the Director of the Federal Register for Incorporation by Reference approval. The Director of the Federal Register approved this incorporation by reference in accordance with 5 U.S.C. 552(a) and part 51 of title 1 of the Code of Federal Regulations. The NTIA Manual is available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, by referring to Catalog Number 903–008–00000–8. A reference copy of the NTIA Manual, including all revisions in effect, is available in the Office of Spectrum Management, 1401 Constitution Avenue, NW., Room 1087, Washington, DC 20230, or call William Mitchell on (202) 482–8124, and available online at <http://www.ntia.doc.gov/osmhome/redbook/redbook.html>. The NTIA Manual is also on file at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

**Paperwork Reduction Act**

This action does not contain collection of information requirements subject to the Paperwork Reduction Act (PRA). Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be

subject to a penalty for failure to comply with, a collection of information subject to the PRA, unless that collection displays a currently valid OMB Control Number.

**Executive Order 12866**

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

**Administrative Procedure Act/Regulatory Flexibility Act**

NTIA finds good cause under 5 U.S.C. 553(b)(B) to waive prior notice and opportunity for public comment as it is unnecessary. This action amends the regulations to include the date of the most current version of the NTIA Manual. These changes do not impact the rights or obligations of the public. The NTIA Manual applies only to federal agencies. Because these changes impact only federal agencies, NTIA finds it unnecessary to provide for the notice and comment requirements of 5 U.S.C. 553. NTIA also finds good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effectiveness for the reasons provided above. Because notice and opportunity for comment are not required pursuant to 5 U.S.C. 553 or any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable. Therefore, a regulatory flexibility analysis is not required and has not been prepared.

**Congressional Review Act**

The NTIA Manual provides for the policies and procedures for federal agencies' use of the radio spectrum. The NTIA Manual and the changes thereto do not substantially affect the rights or obligations of the public. As a result, this notice is not a “rule” as defined by the Congressional Review Act, 5 U.S.C. 804(3)(C).

**Executive Order 13132**

This rule does not contain policies having federalism implications as that term is defined in EO 13132.

**Regulatory Text****List of Subjects in 47 CFR Part 300**

Incorporation by reference; Radio.

For the reasons set forth in the preamble, NTIA amends title 47, Part 300 as follows:

**PART 300—MANUAL OF REGULATIONS AND PROCEDURES FOR FEDERAL RADIO FREQUENCY MANAGEMENT**

■ 1. The authority citation for Part 300 continues to read as follows:

**Authority:** 47 U.S.C. 901 et seq., Executive Order 12046 (March 27, 1978), 43 FR 13349, 3 CFR 1978 Comp., p. 158.

■ 2. Section 300.1(b) is revised to read as follows:

**§ 300.1 Incorporation by reference of the Manual of Regulations and Procedures for Federal Radio Frequency Management.**

\* \* \* \* \*

(b) The federal agencies shall comply with the requirements set forth in the January 2008 edition of the NTIA Manual, as revised through May 2011, which is incorporated by reference with approval of the Director, Office of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

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Dated: September 8, 2011.

**Lawrence E. Strickling,**

*Assistant Secretary for Communications and Information.*

[FR Doc. 2011-23450 Filed 9-14-11; 8:45 am]

BILLING CODE 3510-60-P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 110627355-1539-02]

RIN 0648-BB08

#### Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Northeast (NE) Multispecies Fishery; Framework Adjustment 46

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

**ACTION:** Final rule.

**SUMMARY:** This final rule partially approves Framework Adjustment (FW) 46 to the NE Multispecies Fishery Management Plan (FMP), which increases the haddock incidental catch cap allocated to the Atlantic midwater trawl herring fishery to 1 percent of the Georges Bank (GB) haddock Acceptable Biological Catch (ABC) and to 1 percent of the Gulf of Maine (GOM) haddock ABC, thereby, adjusting final fishing year (FY) 2011 specifications for the other fishery components of these ABCs. In addition, this action modifies the method for estimating haddock catch in the herring fishery and the relevant accountability measures (AMs) such that, upon attainment of the cap, the midwater trawl herring fleet may not

catch or land herring in excess of the incidental catch limit (2,000 lb (907.2 kg)) in or from the appropriate haddock stock area. In addition, in this action NMFS disapproves measures in FW 46 that would have required open access herring vessels using midwater trawl gear to report total kept catch, and notify the Office of Law Enforcement, prior to landing. NMFS also disapproves a measure to require all midwater trawl vessels to report gear used on each trip into the Gulf of Maine or Georges Bank. FW 46 was developed by the New England Fishery Management Council (Council) to address the haddock incidental catch cap in the Atlantic herring fishery to allow the herring fishery to achieve optimum yield, by establishing a better opportunity to fully harvest the available herring quota, while providing incentives for the midwater trawl fishery to minimize haddock catch and, ensuring that haddock catch is adequately controlled and monitored.

**DATES:** This rule is effective September 14, 2011, except for § 648.10(l), which will become effective September 28, 2011.

**ADDRESSES:** Copies of FW 46, its Regulatory Impact Review (RIR), the final environmental assessment (EA) prepared for this action, and the Initial Regulatory Flexibility Analysis (IRFA) prepared by the Council are available from Paul J. Howard, Executive Director, New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950. A Final Regulatory Flexibility Analysis (FRFA) was prepared for this final rule and is comprised of the EA, the preamble, and the Classification sections of the final rule. The FW 46 EA/RIR/IRFA are also accessible via the Internet at <http://www.nefmc.org/nemulti/index.html> or <http://www.nero.noaa.gov>. Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this rule should be submitted to the Regional Administrator at the address above and to the Office of Management and Budget (OMB) by e-mail at [OIRA\\_Submission@omb.eop.gov](mailto:OIRA_Submission@omb.eop.gov), or fax to (202) 395-7285.

**FOR FURTHER INFORMATION CONTACT:** Melissa Vasquez, Fishery Policy Analyst, *phone:* 978-281-9166, *fax:* 978-281-9135.

**SUPPLEMENTARY INFORMATION:** A proposed rule to implement measures in FW 46 was published on July 19, 2011 (76 FR 42663), soliciting public comment through August 3, 2011. After review of all public comments, NMFS has approved several of the proposed

measures in FW 46, determining that approved measures, as listed below, are consistent with the goals of the FMP as described in Amendment 16 to the FMP, the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), and other applicable laws. These final measures are unchanged from those that were proposed.

#### Background

The Atlantic herring fishery is currently allocated a sub-Annual Catch Limit (ACL) of haddock that is equal to 0.2 percent of the combined GOM and GB haddock ABCs, to account for haddock that is incidentally caught in the herring fishery. When this cap is reached, herring vessels are restricted to an incidental possession limit of 2,000 lb (907.2 kg) of herring per trip in specific portions of the GOM and GB, which effectively closes these areas to directed herring fishing. The Council initiated FW 46 in January 2011 to address industry concerns that the haddock incidental catch cap was becoming too constraining on the herring fishery, particularly given the increased, healthy biomass of haddock on GB and the fact that the commercial groundfish fishery is not likely able to harvest its own sub-ACL for these stocks. An early effective closure of the directed herring fishery as a result of catching the incidental catch cap could result in thwarting fishery participants from potentially achieving optimum yield and limiting the supply of herring bait to the lobster fishery. For example, in FY 2010, the herring fishery was constrained by the cap and had to modify its behavior, which may have resulted in up to \$5.5 million in foregone herring from Herring Management Area 3. Thus, the Council developed FW 46 to revise the haddock incidental catch cap for the Atlantic herring fishery to allow for the achievement of optimum yield through establishing a better opportunity to fully harvest the available herring quota, while providing incentives for the midwater trawl herring fishery to minimize haddock catch, and ensuring that haddock catch is adequately controlled and monitored. A complete discussion of the development of FW 46 and the pre-FW 46 haddock incidental catch cap measures and their rationale appears in the preamble to the proposed rule and is not repeated here.