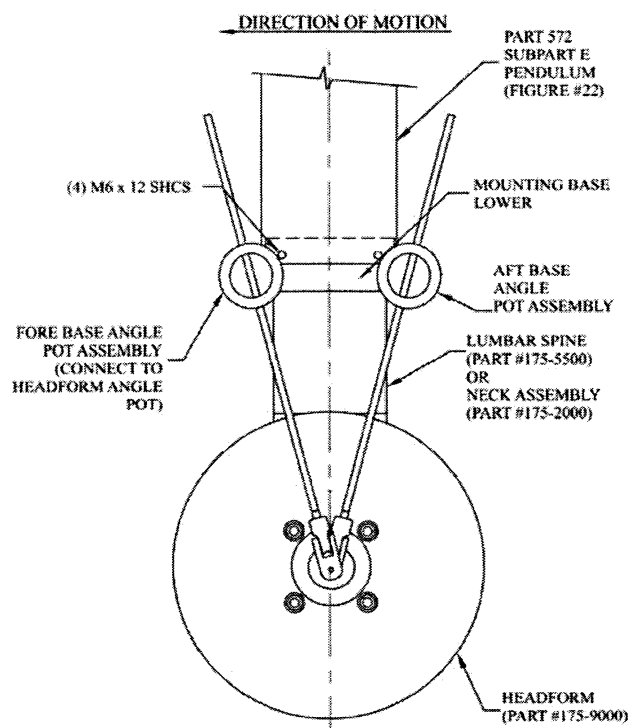


Figure U2-A
NECK/LUMBAR SPINE/HEADFORM ATTACHED TO PENDULUM



* * * * *

Issued: May 30, 2008.

James F. Ports, Jr.,

Deputy Administrator.

[FR Doc. E8-13063 Filed 6-13-08; 8:45 am]

BILLING CODE 4910-59-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 080123074-8654-02]

RIN 0648-AW31

Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Scallop Dredge Exemption Areas; Addition of Monkfish Incidental Catch Trip Limits

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

ACTION: Final rule.

SUMMARY: This action modifies the regulations implementing the Northeast (NE) Multispecies Fishery Management Plan (FMP) to create three NE Multispecies Scallop Exemptions that are identical to the current scallop

exemptions, except for the addition of an incidental monkfish catch limit. These new scallop exemptions are restricted to vessels issued either a General Category Atlantic sea scallop permit or a limited access Atlantic sea scallop permit (when not fishing under a scallop days-at-sea (DAS) limitation), when fishing for scallops with small dredge gear (combined width not to exceed 10.5 ft (3.2 m)). Vessels that land an incidental catch of monkfish within these new scallop exemptions are required to possess, and have onboard, a valid limited access monkfish permit, or an open access monkfish Incidental Catch permit. The intent of this action is to allow small scallop dredge vessels to land monkfish that are currently being discarded, consistent with the bycatch reduction objectives of the FMP and National Standard 9 of the Magnuson-Stevens Fishery Conservation and Management Act.

DATES: Effective July 16, 2008.

ADDRESSES: Copies of this regulatory amendment, and its small entity compliance guide, are available from Patricia A. Kurkul, Regional Administrator, National Marine Fisheries Service, 1 Blackburn Drive, Gloucester, MA 01930. The small entity compliance guide is also accessible via the Internet at <http://www.nero.noaa.gov/>.

FOR FURTHER INFORMATION CONTACT:

Timothy Cardiasmenos, Fishery Policy Analyst, phone (978) 281-9204, fax (978) 281-9135.

SUPPLEMENTARY INFORMATION:

Background

Current regulations, implemented under Framework Adjustment 9 to the FMP, and expanded under Amendment 7 to the FMP, contain a NE multispecies fishing mortality and bycatch reduction measure that is applied to the Gulf of Maine (GOM), Georges Bank (GB), and Southern New England (SNE) Exemption Areas. This measure prohibits vessels from fishing in these areas unless they are fishing under a NE multispecies or a scallop DAS allocation, are fishing with exempted gear, are fishing under the Small Vessel Handgear (A or B) or Party/Charter permit restrictions, or are fishing in an exempted fishery. The procedure for adding, modifying, or deleting fisheries from the list of exempted fisheries is found in § 648.80. A fishery may be exempted by the Administrator, Northeast Region, NMFS (RA), after consultation with the New England Fishery Management Council (Council), if the RA determines, based on available data or information, that the bycatch of regulated species is, or can be reduced to, on average, less than 5 percent per trip, by weight on board, and that such

exemption will not jeopardize the fishing mortality objectives of the FMP.

At present, there are three scallop exemptions for scallop dredge vessels when fishing under the open access scallop General Category permit, or under the limited access scallop permit when not fishing under a scallop DAS. They are referred to as: The GOM Scallop Dredge Exemption Area, established in Framework 21 to the FMP (February 1997); the SNE Scallop Dredge Exemption Area, established in Amendment 13 to the FMP (April 2004); and the Great South Channel (GSC) Scallop Dredge Exemption Area, established by the authority of the RA (August 2006). On November 2, 2007, a request was submitted on behalf of the General Category scallop fleet to establish an incidental monkfish catch limit of 50 lb (23 kg) tail weight or 166 lb (75 kg) whole weight per trip, consistent with the Monkfish FMP, within the three scallop exemptions. This rule creates three new exemptions, identical to the existing scallop exemption areas, described at § 648.80(a)(11)(i)(A), (a)(18)(ii)(A), and (b)(11)(ii)(A), with the addition of a 50-lb (23-kg) tail weight or 166-lb (75-kg) whole weight incidental monkfish catch limit per trip, provided the fishery does not jeopardize the fishing mortality objectives of the FMP.

The data analyzed for this action consist of observer data from both General Category and limited access scallop dredge trips within the GOM, GSC, and SNE scallop exemption areas from 2001 to 2007. A total of 85 General Category trips and 198 limited access trips were observed during that period. Bycatch rates were calculated on a trip-by-trip basis by adding up the total weight of NE multispecies, scallops (in-shell weight), and all other catch on each observed trip, and then calculating the percentage of the total catch represented by regulated NE multispecies. The percent bycatch of regulated NE multispecies in the exemption areas ranged from 0 to 10.33 percent in General Category trips (N=85), and 0 to 8.6 percent in limited access trips (N=198). The mean percent bycatch of regulated NE multispecies by weight of the total catch across all areas in the General Category and limited access fisheries was less than 1 percent. From a total of 85 observed General Category trips into the exemption areas, the mean percent bycatch was 0.97 percent of the total catch. From the 198 observed limited access scallop dredge trips into those same areas, the mean percent bycatch was estimated to be 0.93 percent of the total catch.

Monkfish discards were analyzed within this same dataset. Monkfish discards within the current exemption areas ranged from 0 to 611 lb (0–277 kg) tail weight per trip in the General Category fishery (N=85). From a total of 85 General Category trips into the current exemption areas, the mean monkfish discard was 48.1 lb (22 kg) tail weight per trip, and the mean trip was 0.44 days (11 hr). This action will allow a level of monkfish incidental bycatch within the scallop exemptions of 50 lb (23 kg) tail weight or 166 lb (75 kg) whole weight per trip. This level of monkfish fishing mortality from scallop dredge vessels is within the allowable limit specified under Framework 4 of the Monkfish FMP (72 FR 53942, September 21, 2007; i.e., 150 lb (68 kg) tail weight or 498 lb (226 kg) whole weight per trip).

GSC Scallop Dredge Exemption Area

From a total of 38 observed General Category trips into the current GSC Scallop Exemption, the mean monkfish catch per trip was 28.98 lb (13 kg) tail weight, and only 1 trip discarded more than 150 lb (68 kg) tail weight. Monkfish bycatch ranged between 0–302.71 lb (0–137 kg) tail weight per trip.

GOM Scallop Dredge Exemption Area

From a total of 29 observed General Category trips into the GOM Scallop Exemption, the mean monkfish catch per trip was 40.6 lb (18 kg) tail weight, and only 3 trips discarded in excess of 150 lb (68 kg) tail weight. Monkfish bycatch ranged between 0–425 lb (0–193 kg) tail weight per trip.

SNE Scallop Dredge Exemption Area

From a total of 18 observed General Category trips into the SNE Scallop Exemption, the mean monkfish catch per trip was 100.5 lb (46 kg) tail weight, and only 3 trips discarded more than 150 lb (68 kg) tail weight. Monkfish bycatch ranged between 0–611 lb (277 kg) tail weight per trip.

The observed level of monkfish discard within the current scallop exemptions, as detailed above, is consistent with the monkfish incidental catch limit instituted by this action. This level of monkfish fishing mortality in the General Category scallop dredge fleet was previously analyzed within Framework 4 to the Monkfish FMP. Since the data indicate that the monkfish incidental catch limit instituted by this action is currently being discarded, no change in fishing behavior is expected, and it is not anticipated that there will be an increase in regulated species bycatch. These new scallop exemptions are

identical to the existing scallop exemptions, with the addition of an incidental catch of monkfish, and are therefore expected to meet both the bycatch and the fishing mortality requirements of the regulations. Public comment regarding this action was solicited in the proposed rule (73 FR 23175, April 29, 2008). The comment period closed on May 14, 2008.

Management Measures

GOM, SNE, and the GSC Scallop Dredge Exemption Areas

Based on the analysis of available data, the bycatch of regulated species by scallop dredge vessels is less than, on average, 5 percent per trip, by weight on board, within the exemption areas and the monkfish bycatch is consistent with the incidental catch level analyzed within the Monkfish FMP. The data analysis shows that, on average, scallop dredge vessels are currently discarding 48.1 lb (22 kg) tail weight of monkfish per trip within the three exemption areas, a level consistent with the monkfish incidental catch (50 lb (23 kg) tail weight or 166 lb (75 kg) whole weight per trip) instituted by this action. In addition, there are no data to suggest that modifying the present exemptions to accommodate a monkfish incidental catch at 50 lb (23 kg) tail weight or 166 lb (75 kg) whole weight per trip would cause a shift in effort towards monkfish or NE multispecies. Therefore, the RA has determined that a monkfish incidental catch of 50 lb (23 kg) tail weight or 166 lb (75 kg) whole weight per trip, within the GOM, SNE, and GSC Scallop Exemptions, meets the exemption requirements specified in § 648.80(a)(8), and would not be inconsistent with the monkfish fishing mortality goals of the Monkfish FMP.

Therefore, this rule creates three scallop exemptions (GOM, SNE, and GSC), identical to the existing scallop exemptions, with the addition of a 50-lb (23-kg) tail weight or 166-lb (75-kg) whole weight per trip monkfish incidental catch possession limit. These new scallop exemptions are restricted to vessels issued either a General Category Atlantic sea scallop permit or a limited access sea scallop permit (when not fishing under a scallop DAS limitation), when fishing with small dredges (combined width not to exceed 10.5 ft (3.2 m)). Vessels that land an incidental catch of monkfish within these new scallop exemptions are required to possess, and have onboard, a valid limited access monkfish permit, or a monkfish open access Incidental Catch permit.

Changes From the Proposed Rule

There was one comment received in support of the proposed rule, and there are no substantive changes to the proposed rule. Additional language was added to the final rule, to clarify that scallop dredge vessels that land an incidental catch of monkfish within these new scallop exemptions, who do not currently possess a monkfish permit, must obtain a monkfish open access Incidental Catch permit.

Classification

NMFS has determined that this final rule is consistent with the FMP and has determined that it is consistent with the Magnuson-Stevens Fishery Conservation and Management Act and other applicable laws.

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

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not required and none was prepared. There are no Federal rules that duplicate, overlap, or conflict with the final rule. This action creates three scallop exemptions for General Category scallop vessels, or limited access scallop vessels not fishing on a DAS allocation, identical to the current scallop exemptions, with the addition of an incidental catch of monkfish. This action was categorically excluded under the National Environmental Policy Act, as an action that includes minor technical additions, corrections, or changes to an FMP.

The economic impacts of the action are expected to be minimal and positive. This action allows the General Category scallop fleet, while fishing under a scallop exemption, to land up to 50 lb (23 kg) tail weight or 166 lb (75 kg) whole weight of monkfish per trip, in addition to scallops. This allows the fleet to utilize these resources in a manner consistent with the bycatch and mortality objectives of the FMP. This action allows a small incidental catch of monkfish, and as such is expected to minimally increase revenues for scallop dredge vessels fishing under the General Category permit provisions.

Small Entity Compliance Guide

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as "small entity compliance guides." The agency shall explain the action a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, a small entity compliance guide was prepared. Copies of the guide will be sent to all holders of commercial Federal scallop permits. The guide will also be available on the internet at <http://www.nero.noaa.gov>. Copies of the guide can also be obtained from the Regional Administrator (see ADDRESSES).

Reporting and Recordkeeping Requirements

This action does not contain an additional collection-of-information requirement subject to review by the Office of Management and Budget under the Paperwork Reduction Act.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: June 11, 2008.

James W. Balsiger,

Acting 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 § 648.80, paragraphs (a)(8)(iv) introductory text, (a)(11)(i)(A), (a)(18)(ii)(A), and (b)(11)(ii)(A) are revised to read as follows:

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

* * * * *

(a) * * *

(8) * * *

(iv) Unless otherwise specified within the exempted fisheries authorized under this paragraph (a)(8), incidental catch is restricted, at a minimum, to the following:

* * * * *

(11) * * *

(i) * * *

(A) A vessel fishing in the GOM Scallop Dredge Fishery Exemption Area

specified in this paragraph (a)(11) may not fish for, possess on board, or land any species of fish other than Atlantic sea scallops and up to 50 lb (23 kg) tail weight or 166 lb (75 kg) whole weight of monkfish per trip.

* * * * *

(18) * * *

(ii) * * *

(A) A vessel fishing in the Great South Channel Scallop Dredge Exemption Area specified in this paragraph (a)(18) may not fish for, possess on board, or land any species of fish other than Atlantic sea scallops and up to 50 lb (23 kg) tail weight or 166 lb (75 kg) whole weight of monkfish per trip.

* * * * *

(b) * * *

(11) * * *

(ii) * * *

(A) A vessel fishing in the SNE Scallop Dredge Exemption Area may not fish for, possess on board, or land any species of fish other than Atlantic sea scallops and up to 50 lb (23 kg) tail weight or 166 lb (75 kg) whole weight of monkfish per trip.

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[FR Doc. E8-13492 Filed 6-13-08; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 071030625-7696-02]

RIN 0648-X140

Fisheries of the Northeastern United States; Scup Fishery; Commercial Quota Harvested for 2008 Summer Period

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS announces the closure of the scup commercial coastwide fishery from Maine through North Carolina for the Summer Period. Regulations governing the scup fishery require publication of this notification to advise the coastal states from Maine through North Carolina that this quota has been harvested and to advise Federal vessel permit holders and Federal dealer permit holders that no commercial quota is available for landing scup in these states. Federally permitted commercial vessels may not land scup in these states for the