

to address potential over-harvests in fishing year 2010 and 2011, the scope of the Regional Administrator authority specified in this paragraph (o) is not limited to FY 2010 and 2011.

(2) The differential DAS counting factor shall be based on the projected proportion of the sub-ACL of each NE multispecies stock caught by common pool vessels, rounded to the nearest even tenth, as specified in paragraph (n)(1)(ii) of this section, unless otherwise specified in §648.90(a)(5). For example, if the Regional Administrator projects that common pool vessels will catch 1.18 times the sub-ACL for GOM cod by the end of fishing year 2010, the Regional Administrator may implement a differential DAS counting factor of 1.2 to all Category A DAS used by common pool vessels within the Inshore GOM Differential DAS Area during fishing year 2010 (*i.e.*, Category A DAS will be charged at a rate of 28.8 hr for every 24 hr fished—1.2 times 24-hr DAS counting). If it is projected that catch will simultaneously exceed or underharvest the sub-ACLs for several regulated species stocks within a particular stock area, the Regional Administrator may implement the most restrictive differential DAS counting factor derived from paragraph (n)(1)(ii) of this section for the sub-ACLs exceeded or underharvested to any Category A DAS used by common pool vessels within that particular stock area. For example, if it is projected that the common pool vessel catch will exceed the GOM cod sub-ACL by a factor of 1.2 and the CC/GOM yellowtail flounder sub-ACL by a factor of 1.1, the Regional Administrator may implement a differential DAS counting factor of 1.2 to any Category A DAS fished by common pool vessels within the Inshore GOM Differential DAS Area during the fishing year. For any inseason differential DAS counting factor implemented, the differential DAS counting factor shall be applied against the DAS accrual provisions specified in paragraph (e)(1)(i) of this section for the time spent fishing in the applicable differential DAS counting area based upon the first VMS position into the applicable differential DAS counting area and the first VMS position outside of the applicable differential DAS counting area

pursuant to §648.10. For example, if a vessel fished 12 hr inside a differential DAS counting area where a differential DAS counting factor of 1.2 would be applied, and 12 hr outside of the differential DAS counting area, the vessel would be charged 48 hr of DAS, because DAS would be charged in 24-hr increments ((12 hr inside the area  $\times$  1.2 = 14.4 hr) + 12 hr outside the area, rounded to the next 24-hr increment to determine DAS charged).

(3) For any inseason differential DAS counting factor implemented in fishing year 2011, the inseason differential DAS counting factor shall be applied in accordance with the DAS accrual provisions specified in paragraph (e)(1)(i) of this section, and, if pursuant to paragraph (n)(1) of this section, in conjunction with a differential DAS counting factor also implemented for the same differential DAS area during fishing year 2011 as an AM. For example, if a differential DAS counting factor of 1.2 was applied to the Inshore GOM Differential DAS Area during fishing year 2011, as an AM due to a 20-percent overage of the GOM cod sub-ACL in fishing year 2010, and during fishing year 2011 the GOM cod sub-ACL was projected to be exceeded by 30 percent, an additional differential DAS factor of 1.3 would be applied to the DAS accrual rate as an inseason action during fishing year 2011. Under this example, the DAS accrual rate after both the AM and the inseason differential DAS rate is applied to FY 2011 in the Inshore GOM Differential DAS Counting Area would be 37.4 hr charged for every 24 hr fished— $1.2 \times 1.3 \times 24$ -hr DAS charge.

[69 FR 22969, Apr. 27, 2004, as amended at 69 FR 67798, Nov. 19, 2004; 69 FR 70923, Dec. 8, 2004; 70 FR 21942, Apr. 28, 2005; 70 FR 31340, June 1, 2005; 70 FR 76427, Dec. 27, 2005; 71 FR 62186, Oct. 23, 2006; 72 FR 73279, Dec. 27, 2007; 74 FR 10515, Mar. 11, 2009; 74 FR 20555, May 4, 2009; 75 FR 18319, 18371, Apr. 9, 2010; 76 FR 23071, Apr. 25, 2011; 76 FR 42584, July 19, 2011]

EDITORIAL NOTE: At 75 FR 18319, Apr. 9, 2010, in §648.82, paragraph (e)(1)(ii) was revised, however no (e)(1)(ii) existed, so it could not be revised.

**§ 648.83 Multispecies minimum fish sizes.**

(a) *Minimum fish sizes.* (1) Minimum fish sizes for recreational vessels and

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charter/party vessels that are not fishing under a NE multispecies DAS are specified in §648.89. Except as provided in §648.17, all other vessels are subject to the following minimum fish sizes, determined by total length (TL):

**MINIMUM FISH SIZES (TL) FOR COMMERCIAL VESSELS**

Species	Size (inches)
Cod .....	22 (55.9 cm)
Haddock .....	18 (45.7 cm)
Pollock .....	19 (48.3 cm)
Witch flounder (gray sole) .....	14 (35.6 cm)
Yellowtail flounder .....	13 (33.0 cm)
American plaice (dab) .....	14 (35.6 cm)
Atlantic halibut .....	41 (104.1 cm)
Winter flounder (blackback) .....	12 (30.5 cm)
Redfish .....	9 (22.9 cm)

(2) The minimum fish size applies to whole fish or to any part of a fish while possessed on board a vessel, except as provided in paragraph (b) of this section, and to whole, whole-gutted or gilled fish only, after landing. For purposes of determining compliance with the possession limits in §648.86, the weight of fillets and parts of fish, other than whole-gutted or gilled fish, will be multiplied by 3. Fish fillets, or parts of fish, must have skin on while possessed on board a vessel and at the time of landing in order to meet minimum size requirements. “Skin on” means the entire portion of the skin normally attached to the portion of the fish or to fish parts possessed is still attached.

(b) *Exceptions.* (1) Each person aboard a vessel issued a NE multispecies limited access permit and fishing under the NE multispecies DAS program or on a sector trip may possess up to 25 lb (11.3 kg) of fillets that measure less than the minimum size, if such fillets are from legal-sized fish and are not offered or intended for sale, trade, or barter. The weight of fillets and parts of fish, other than whole-gutted or gilled fish, shall be multiplied by 3. For the purposes of accounting for all catch by sector vessels as specified at §648.87(b)(1)(v), the weight of all fillets and parts of fish, other than whole-gutted or gilled fish reported for at-home consumption shall be multiplied by a factor of 3.

(2) Recreational, party, and charter vessels may possess fillets less than the minimum size specified, if the fillets

are taken from legal-sized fish and are not offered or intended for sale, trade or barter.

(3) Vessels fishing exclusively with pot gear may possess NE multispecies frames used, or to be used, as bait, that measure less than the minimum fish size, if there is a receipt for purchase of those frames on board the vessel.

(4) Vessels that have an All Areas Limited Access Herring Permit and/or an Areas 2 and 3 Limited Access Herring Permit may possess and land haddock and other regulated species that are smaller than the minimum size specified under §648.83, consistent with the bycatch caps specified in §§648.86(a)(3) and 648.86(k). Such fish may not be sold for human consumption.

(c) *Adjustments.* (1) At any time when information is available, the NEFMC will review the best available mesh selectivity information to determine the appropriate minimum size for the species listed in paragraph (a) of this section, except winter flounder, according to the length at which 25 percent of the regulated species would be retained by the applicable minimum mesh size.

(2) Upon determination of the appropriate minimum sizes, the NEFMC shall propose the minimum fish sizes to be implemented following the procedures specified in §648.90.

(3) Additional adjustments or changes to the minimum fish sizes specified in paragraph (a) of this section, and exemptions specified in paragraph (b) of this section, may be made at any time after implementation of the final rule as specified under §648.90.

[69 FR 22974, Apr. 27, 2004, as amended at 71 FR 46376, Aug. 15, 2006; 72 FR 11276, Mar. 12, 2007; 75 FR 18328, Apr. 9, 2010; 76 FR 42585, July 19, 2011]

**§ 648.84 Gear-marking requirements and gear restrictions.**

(a) Bottom-tending fixed gear, including, but not limited to, gillnets and longlines designed for, capable of, or fishing for NE multispecies or monkfish, must have the name of the owner or vessel or the official number of that vessel permanently affixed to any buoys, gillnets, longlines, or other appropriate gear so that the name of