

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule

cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 26, 2010. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today’s **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Intergovernmental relations, Incorporation by reference, Ozone, Nitrogen dioxides, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: May 11, 2010.

**Beverly H. Banister,**

*Acting Regional Administrator, Region 4.*

■ 40 CFR part 52 is amended as follows:

**PART 52—[AMENDED]**

■ 1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

**Subpart K—Florida**

■ 2. Section 52.520(e) is amended by adding new entries at the end of the table for the “110(a)(1) Maintenance Plan for the Southeast Florida Area”, “110(a)(1) Maintenance Plan for the Tampa Area”, and “110(a)(1) Maintenance Plan for the Jacksonville, Florida Area” to read as follows:

**§ 52.520 Identification of plan.**

\* \* \* \* \*  
(e) \* \* \*

**EPA-APPROVED FLORIDA NON-REGULATORY PROVISIONS**

Provision	State effective date	EPA approval date	Federal Register notice	Explanation
110(a)(1) Maintenance Plan for the Southeast Florida Area.	July 2, 2009 .....	July 26, 2010. ....	[Insert citation of publication].	110(a)(1) maintenance plan for 1997 8-hour ozone NAAQS.
110(a)(1) Maintenance Plan for the Tampa, Florida Area.	July 2, 2009 .....	July 26, 2010. ....	[Insert citation of publication].	110(a)(1) maintenance plan for 1997 8-hour ozone NAAQS.
110(a)(1) Maintenance Plan for the Jacksonville, Florida Area.	July 2, 2009 .....	July 26, 2010. ....	[Insert citation of publication].	110(a)(1) maintenance plan for 1997 8-hour ozone NAAQS.

[FR Doc. 2010-12660 Filed 5-26-10; 8:45 am]

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**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Parts 2, 90, and 95**

[WP Docket No. 07-100; FCC 10-75]

**PLMR Licensing; Frequency Coordination and Eligibility Issues**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; clarification.

**SUMMARY:** In this document, the Commission, on its own motion, clarifies certain rules adopted in a previous decision in this proceeding to

further explain our analysis underlying this decision. We also clarify the rule change removing the frequency coordination requirement for applications to modify private land mobile radio licenses by reducing the authorized bandwidth.

**FOR FURTHER INFORMATION CONTACT:** Scot Stone, Wireless Telecommunications Bureau, at (202) 418-0638, or by e-mail at [Scot.Stone@fcc.gov](mailto:Scot.Stone@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a summary of the Federal Communication Commission’s *Order on Reconsideration* in WP Docket No. 07-100, FCC 10-75, adopted on May 4, 2010, and released on May 6, 2010. This document is available to the public at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/FCC-10-75A1.doc](http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-10-75A1.doc).

**Synopsis of the Order on Reconsideration**

1. In this *Order on Reconsideration*, we act on our own motion to clarify the bases for certain rule changes adopted in the above-captioned proceeding. In the *Second Report and Order* published at 75 FR 19277, April 14, 2010, in this proceeding, we amended our rules to provide that Wireless Medical Telemetry Service (WMTS) operations are not permitted in the portions of the 1427-1432 MHz band where non-medical telemetry has primary status. We take this opportunity to further explain our analysis underlying this decision. We also clarify the rule change removing the frequency coordination requirement for applications to modify

private land mobile radio licenses by reducing the authorized bandwidth.

2. WMTS was established to enhance the reliability of medical telemetry equipment, and to ensure that wireless medical telemetry devices can operate free of harmful interference. The band 1427–1432 MHz is shared between medical and non-medical telemetry operations. Generally, WMTS has primary status in the lower half of the band, and non-medical telemetry is primary in the upper half. Our rules do not explicitly authorize WMTS systems to operate on a secondary basis on frequencies where non-medical telemetry is primary. In response to conflicting requests, the *Notice of Proposed Rulemaking* published at 72 FR 32582, June 13, 2007, in this proceeding sought comment on amending the rules to clarify whether such operations are permitted.

3. In the *Second Report and Order*, we concluded that secondary WMTS operations should not currently be authorized. We noted that the Commission created WMTS in order to make available spectrum where medical telemetry services could operate free from harmful interference, and expressed concern that the authorization of secondary WMTS operations could subject such operations to the same interference issues that the WMTS allocation was intended to address. Because the record suggested that WMTS devices can operate safely on a secondary basis under certain conditions, however, we sought comment in the *Second Further Notice of Proposed Rule Making* published at 75 FR 19340, April 14, 2010, on whether secondary WMTS operations should be sanctioned upon the adoption of adequate safeguards.

4. We take this opportunity to further clarify that our decision in the *Second Report and Order* not to permit additional secondary WMTS operations at this time was not based on a conclusion that operation of medical devices on a secondary basis is *per se* contrary to the public interest. Rather, we concluded only that appropriate and effective measures must be taken to detect and avoid harmful interference, and that the existing record did not provide a sufficient basis to determine that such measures could be developed. This decision pertained only to WMTS, taking into account the unique technical characteristics of the service, the current lack of safeguards in our rules to promote safe secondary operations, and the operations with which WMTS shares spectrum. Further, as noted above, the issue of whether to amend the rules to authorize secondary

operations under appropriate conditions remains pending in this proceeding.

5. In addition, the *Second Report and Order* amended § 90.175(j) of the Commission's rules to remove the frequency coordination requirement for applications to modify existing licenses by reducing the authorized bandwidth. We found no need for a part 90 frequency coordinator to review such proposals in advance, because a simple reduction in authorized bandwidth cannot adversely impact co-channel or adjacent channel licensees. It may, however, increase the amount of power within a certain bandwidth. Consequently, we take this opportunity to remind licensees that the coordination and consent requirements set forth in § 1.924 of our rules regarding proposed new or modified operations in quiet zones continue to apply to such applications.

**Marlene H. Dortch,**

*Secretary, Federal Communications Commission.*

[FR Doc. 2010–12773 Filed 5–26–10; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 0910051338–0151–02]

RIN 0648–XW52

#### Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Reductions to Trip Limits for Five Groundfish Stocks

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

**ACTION:** Temporary rule; inseason adjustment of landing limits.

**SUMMARY:** This action decreases the landing limit for Gulf of Maine (GOM) haddock, Georges Bank (GB) haddock, GOM winter flounder, GB winter flounder, and GB yellowtail flounder for Northeast (NE) multispecies vessels fishing under common pool regulations for the 2010 fishing year (FY). This action is authorized by the regulations implementing Amendment 16 and Framework Adjustment 44 (FW 44) to the NE Multispecies Fishery Management Plan (FMP) and is intended to decrease the likelihood of harvest exceeding the subcomponent of the annual catch limit (ACL) allocated

to the common pool (common pool sub-ACL) for each of these five stocks during FY 2010 (May 1, 2010, through April 30, 2011). This action is being taken to optimize the harvest of NE regulated multispecies under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

**DATES:** Effective 0001 hours May 27, 2010, through April 30, 2011.

**FOR FURTHER INFORMATION CONTACT:** Brett Alger, Fishery Management Specialist, (978) 675–2153, fax (978) 281–9135.

#### SUPPLEMENTARY INFORMATION:

Regulations governing possession and landing limits for vessels fishing under common pool regulations are found at 50 CFR 648.86. The regulations authorize vessels issued a valid limited access NE multispecies permit and fishing under a NE multispecies day-at-sea (DAS), or fishing under a NE multispecies Small Vessel or Handgear A or B category permit, to fish for and retain NE multispecies, under specified conditions. The vessels fishing in the common pool are allocated a sub-ACL equivalent to that portion of the commercial groundfish ACL that is not allocated to the 17 approved NE multispecies sectors for FY 2010. The final rule implementing FW 44 (75 FR 18356, April 9, 2010) established ACLs for FY 2010. For FY 2010, the common pool sub-ACLs for these stocks are: 26 mt (57,320 lb) for GOM haddock; 254 mt (559,974 lb) for GB haddock; 25 mt (55,116 lb) for GOM winter flounder; 29 mt (63,934 lb) for GB winter flounder; and 23 mt (50,706 lb) for GB yellowtail flounder. Of these stocks, only two currently have possession limits: 5,000 lb (2,268.0 kg) per trip for GB winter flounder; and 2,500 lb (1,134.0 kg) per trip for GB yellowtail flounder.

The regulations at § 648.86(o) authorize the Administrator, Northeast (NE) Region, NMFS (Regional Administrator) to increase or decrease the trip limits for vessels in the common pool to prevent over-harvesting or under-harvesting the common pool sub-ACL. The relatively small sub-ACLs allocated to the common pool in FY 2010, combined with the initial trip limits, could result in the entire sub-ACL being harvested by very few fishing trips. Exceeding the common pool sub-ACL prior to April 30, 2011, would require drastic trip limit reductions and/or imposition of differential DAS counting for the remainder of FY 2010 to minimize the overage, and would trigger accountability measures (AMs) in FY 2011, including differential DAS counting, to prevent future overages.