

Commission Delegated Regulation (EU) 2018/45 of 20 October 2017 establishing a discard plan for certain demersal fisheries in the North Sea and in Union waters of ICES Division IIa for the year 2018

Article 1

Implementation of the landing obligation

In ICES Subarea IV (North Sea), ICES Division IIIa (Kattegat and Skagerrak) and Union waters of ICES Division IIa (Norwegian Sea) the landing obligation provided for in Article 15(1) of Regulation (EU) No 1380/2013 shall apply to demersal fisheries in accordance with this Regulation.

Article 2

Definitions

For the purpose of this Regulation the following definitions shall apply:

- (1) ‘Seltra panel’ means a selectivity device which:
 - consists of a top panel of at least 270 mm mesh size (diamond mesh) placed in a four-panel section and mounted with a joining ratio of three meshes of 90 mm to one mesh of 270 mm, or of a top panel of at least 140 mm mesh size (square mesh),
 - is at least 3 metres long,
 - is positioned no more than 4 metres from the cod line, and
 - is the full width of the top sheet of the trawl (i.e. from selvedge to selvedge).
- (2) ‘Netgrid selectivity device’ means a selectivity device consisting of a four-panel section inserted into a two-panel trawl with an inclined sheet of diamond mesh netting with a mesh size of at least 200 mm, leading to an escape hole in the top of the trawl.
- (3) ‘Flemish Panel’ means the last tapered netting section of a beam trawl whose:
 - anterior is directly attached to the cod-end,
 - upper and lower netting sections are constructed of at least 120 mm mesh as measured between the knots,
 - stretched length is at least 3 m.
- (4) ‘SepNep’ means an otter trawl which:
 - is constructed within the mesh size range of 80 to 99 + \geq 100 mm,
 - is fitted with multiple cod-ends of mesh sizes ranging from at least 80 to 120 mm attached to a single extension piece, the uppermost cod-end being constructed with a mesh size of at least 120 mm and fitted with a separation panel with a maximum mesh size of 105 mm, and
 - may also be fitted with an optional selection grid with a bar spacing of at least 17 mm provided it is constructed in such a way so as to allow the escape of small *Nephrops*.

Article 3

Species subject to the landing obligation

The landing obligation shall apply to the species referred to in the Annex to this Regulation, subject to the exemptions set out in Articles 4 to 7.

Article 4

Survivability exemptions for Norway lobster

1 The survivability exemption referred to in Article 15(4)(b) of Regulation (EU) No 1380/2013 shall apply to the following catches of Norway lobster:

- a catches with pots (FPO⁽¹⁾);
- b catches in ICES Division IIIa with bottom trawls (OTB, TBN) with a mesh size of at least 70 mm equipped with a species selective grid with bar spacing of maximum 35 mm;
- c catches in ICES Division IIIa with bottom trawls (OTB, TBN) with a mesh size of at least 90 mm equipped with a seltra panel;
- d in winter months (October to March), catches in the functional units Farn Deep (FU6), Firth of Forth (FU8) and Moray Firth (FU9) with bottom trawls (OTB, TBN) with a mesh size of at least 80 mm equipped with a netgrid selectivity device.

2 When discarding Norway lobster caught in cases referred to in paragraph 1, the Norway lobster shall be released whole, immediately and in the area where it has been caught.

Article 5

Survivability exemption for common sole

1 The survivability exemption referred to in Article 15(4)(b) of Regulation (EU) No 1380/2013 shall apply to catches of common sole below minimum conservation reference size made within 6 nautical miles of the coast in ICES area IVc and outside identified nursery areas, with otter trawls (OTB) with cod end mesh size of 80-99 mm.

2 The exemption referred to in paragraph 1 shall only apply to vessels with a maximum length of 10 metres, a maximum engine power of 221 kW, when fishing in waters with a depth of 30 metres or less and with limited tow durations of no more than 1.30 hours.

3 When discarding common sole caught in cases referred to in paragraph 1, the common sole shall be released immediately.

Article 6

Survivability exemption fish by-catch in pots and fyke nets

1 The survivability exemption referred to in Article 15(4)(b) of Regulation (EU) No 1380/2013 shall apply to catches of cod, haddock, whiting, plaice, sole, hake and saithe with pots and fyke nets (FPO, FYK).

2 When discarding fish caught in cases referred to in paragraph 1, the fish shall be released immediately and below the sea surface.

Article 7

De minimis exemptions

By way of derogation from Article 15(1) of Regulation (EU) No 1380/2013, the following quantities may be discarded pursuant to Article 15(4)(c) of that Regulation:

- (a) in the fisheries by vessels using trammel nets and gill nets (GN, GNS, GND, GNC, GTN, GTR, GEN, GNF) in ICES Division IIIa, ICES Subarea IV and Union waters of ICES Division IIa:
 - a quantity of common sole which shall not exceed 3 % of the total annual catches of that species;
- (b) in the fisheries by vessels using beam trawl (TBB) of mesh size 80-119 mm with increased mesh size in the extension of the beam trawl, Flemish panel, in ICES Subarea IV:
 - a quantity of common sole below minimum conservation reference sizes, which shall not exceed 6 % of the total annual catches of that species;
- (c) in the fisheries by vessels using bottom trawls (OTB, OTT, TB, TBN,) of mesh size 80-99 mm in ICES Subarea IV and Union waters of ICES Division IIa:
 - a quantity of Norway lobster below minimum conservation reference sizes, which shall not exceed 2 % of the total annual catches of that species;
- (d) in the fishery for Norway lobster by vessels using bottom trawls (OTB, TBN) of mesh size equal to or larger than 70 mm equipped with a species-selective grid with bar spacing of maximum 35 mm in ICES Division IIIa:
 - a combined quantity of common sole, haddock, whiting, cod and saithe below minimum conservation reference sizes, which shall not exceed 4 % of the total annual catches of Norway lobster, common sole, haddock, whiting and Northern prawn, cod and saithe;
- (e) in the fishery for Northern prawn by vessels using bottom trawls (OTB) with a mesh size equal to or larger than 35 mm equipped with a species selective grid with bar spacing of maximum 19 mm, with unblocked fish outlet, in ICES Division IIIa:
 - a combined quantity of common sole, haddock, whiting, cod, plaice and saithe below minimum conservation reference sizes, which shall not exceed 1 % of the total annual catches of Norway lobster, common sole, haddock, whiting, cod, saithe and plaice and Northern prawn;
- (f) in the mixed fishery for sole, whiting, plaice and species without catch limits by vessels using bottom trawls (OTB, OTT, SDN, SSC) of mesh size 70-99 mm in ICES Division IVc:
 - a combined quantity of whiting and cod below minimum conservation reference sizes, which shall not exceed 6 % of the total annual catches of Norway lobster, haddock, sole, Northern prawn, whiting, plaice, saithe and cod; the maximum amount of cod that may be discarded shall be limited to 2 % of those total annual catches;

- (g) in the fisheries by vessels using bottom trawls (OTB, OTT, TBN) with a mesh size of 90-119 mm, equipped with Seltra panel, or with a mesh size of 120 mm and above in ICES Division IIIa:
- a quantity of whiting below minimum conservation reference sizes, up to a maximum of 2 % of the total annual catches of Nephrops, cod, haddock, whiting, saithe, common sole, plaice and hake.

Article 8

Minimum conservation reference sizes

By way of derogation from the minimum conservation reference size established in Annex XII to Regulation (EC) No 850/98, the minimum conservation reference size of Norway lobster in ICES Division IIIa shall be as follows:

- (a) total length of 105 mm;
- (b) tail length of 59 mm;
- (c) carapace length of 32 mm.

Article 9

Specific technical measures in the Skagerrak

- 1 The carrying on board or the use of any trawl, Danish seine, beam trawl or similar towed net having a mesh size of less than 120 mm shall be prohibited in the Skagerrak.
- 2 By way of derogation from paragraph 1, the following trawls may be used:
 - a trawls with a cod end of a mesh size of at least 90 mm, provided they are equipped with a seltra panel or a sorting grid with no more than 35 mm bar spacing;
 - b trawls with a cod end of at least 70 mm mesh size (square mesh) equipped with a sorting grid with no more than 35 mm bar spacing;
 - c trawls of minimum mesh sizes of less than 70 mm when fishing for pelagic or industrial species, provided the catch contains more than 80 % of one or more pelagic or industrial species;
 - d trawls with a cod end of at least 35 mm mesh size when fishing for Northern prawn, provided the trawl is equipped with a sorting grid with a maximum bar spacing of 19 mm.
- 3 A fish retention device may be used when fishing for Northern prawn in accordance with paragraph 2(d), provided there are adequate fishing opportunities to cover by-catch and that the retention device is:
 - a constructed with a top panel of a minimum mesh size of 120 mm square mesh;
 - b at least 3 metres long; and
 - c at least as wide as the width of the sorting grid.

Changes to legislation: There are currently no known outstanding effects for the
Commission Delegated Regulation (EU) 2018/45. (See end of Document for details)

Article 10

SepNep

By derogation from Article 4 of Regulation (EC) No 850/98, it shall be permitted to use the SepNep nets.

Article 11

Repeal

Regulation (EU) 2016/2250 is repealed.

Article 12

Entry into force and application

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2018 until 31 December 2018.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 20 October 2017.

For the Commission

The President

Jean-Claude JUNCKER

Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2018/45. (See end of Document for details)

- (1) Gear codes used in this Regulation refer to those codes in Annex XI to Commission Implementing Regulation (EU) No 404/2011 laying down detailed rules for the implementation of Council Regulation (EC) No 1224/2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy. For the vessels whose LOA is less than 10 metres, gear codes used in this table refer to the codes from the FAO gear classification.

Changes to legislation:

There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2018/45.