

List of Subjects in 50 CFR Part 226

Endangered and threatened species.

Dated: November 29, 1999.

Penelope D. Dalton,

*Assistant Administrator for Fisheries,
National Marine Fisheries Service.*

For the reasons set forth in the preamble, 50 CFR part 226 is proposed to be amended as follows:

PART 226—DESIGNATED CRITICAL HABITAT

1. The authority citation for part 226 continues to read as follows:

Authority: 16 U.S.C. 1533.

2. Section 226.211 is added to part 226 to read as follows:

§ 226.211 Critical habitat for Johnson's seagrass

Critical habitat is designated to include substrate and water in the following ten portions of the Indian River Lagoon and Biscayne Bay within the current range of Johnson's seagrass.

(a) A portion of the Indian River, Florida, north of Sebastian Inlet Channel, defined by the following coordinates:

Northwest corner: 27°51'15.03"N,
80°27'55.49"W

Northeast corner: 27°51'16.57"N,
80°27'53.05"W

Southwest corner: 27°51'08.85"N,
80°27'50.48"W

Southeast corner: 27°51'11.58"N,
80°27'47.35"W

(b) A portion of the Indian River, Florida, south of the Sebastian Inlet Channel, defined by the following coordinates:

Northwest corner: 27°51'01.32"N,
80°27'46.10"W

Northeast corner: 27°51'02.69"N,
80°27'45.27"W

Southwest corner: 27°50'59.08"N,
80°27'41.84"W

Southeast corner: 27°51'01.07"N,
80°27'40.50"W

(c) A portion of the Indian River Lagoon in the vicinity of the Fort Pierce Inlet. This site is located on the north side of the entrance channel just west of a small mangrove vegetated island where the main entrance channel bifurcates to the north. The area is defined by the following coordinates:

Northwest corner: 27°28'06.00"N,
80°18'48.89"W

Northeast corner: 27°28'04.43"N,
80°18'42.25"W

Southwest corner: 27°28'02.86"N,
80°18'49.06"W

Southeast corner: 27°28'01.46"N,
80°18'42.42"W

(d) A portion of the Indian River Lagoon, Florida, North of the St. Lucie

Inlet; from South Nettles Island to the Florida Oceanographic Institute, defined with the following coordinates:

Northwest corner: 27°16'44.04"N,
80°14'00.00"W

Northeast corner: 27°16'44.04"N,
80°12'51.33"W

Southwest corner: 27°12'49.70"N,
80°11'46.80"W

Southeast corner: 27°12'49.70"N,
80°11'02.50"W

(e) Hobe Sound beginning at State Road 708 (27°03'49.90"N,
80°07'20.57"W) and extending south to 27°00'00.00"N, 80°05'32.54"W.

(f) Jupiter Inlet at a site located just west of the entrance to Zeek's Marina on the south side of Jupiter Inlet and defined by the following coordinates (note a south central point was included to better define the shape of the southern boundary):

Northwest corner: 26°56'43.34"N,
80°04'47.84"W

Northeast corner: 26°56'40.93"N,
80°04'42.61"W

Southwest corner: 26°56'40.73"N,
80°04'48.65"W

South central point: 26°56'38.11"N,
80°04'45.83"W

Southeast corner: 26°56'38.31"N,
80°04'42.41"W

(g) A portion of Lake Worth, Florida, just north of Bingham Island defined by the following coordinates:

Northwest corner: 26°40'44.00"N,
80°02'39.00"W

Northeast corner: 26°40'40.00"N,
80°02'34.00"W

Southwest corner: 26°40'32.00"N,
80°02'44.00"W

Southeast corner: 26°40'33.00"N,
80°02'35.00"W

(h) A portion of Lake Worth Lagoon, Florida, located just north of the Boynton Inlet, on the west side of the Intracoastal Waterway, defined by the following coordinates:

Northwest corner: 26°33'28.00"N,
80°02'54.00"W

Northeast corner: 26°33'30.00"N,
80°03'04.00"W

Southwest corner: 26°32'50.00"N,
80°03'11.00"W

Southeast corner: 26°32'50.00"N,
80°02'58.00"W

(i) A portion of northeast Lake Wyman, Boca Raton, Florida, defined by the following coordinates:

Northwest corner: 26°22'27.00"N,
80°04'23.00"W

Northeast corner: 26°22'27.00"N,
80°04'18.00"W

Southwest corner: 26°22'23.00"N,
80°04'22.00"W

Southeast corner: 26°22'23.00"N,
80°04'19.00"W

(j) A portion of Northern Biscayne Bay, Florida, defined by the following: The northern boundary of Biscayne Bay Aquatic Preserve, NE. 163rd Street, and including all parts of the Biscayne Bay Aquatics Preserve as defined in 18–18.002 of the Florida Administrative Code (F.A.C.) excluding the Ortega River beyond its mouth, and all Federal navigation channels at the Port of Miami, not including the Intracoastal Waterway, to the currently documented southernmost range of Johnson's seagrass, Central Key Biscayne (25° 45N).

[FR Doc. 99–31304 Filed 11–29–99; 4:07 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 648**

[Docket No. 991104295–9295–01; I.D. 100599D]

RIN 0648–AM74

Fisheries of the Northeastern United States; Dealer and Vessel Reporting Requirements

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to amend the existing reporting requirements for dealers and vessels issued a Federal permit to operate in the summer flounder, scup, black sea bass, Atlantic sea scallop, Northeast (NE) multispecies, monkfish, Atlantic mackerel, squid and butterflyfish, surf clam or ocean quahog fisheries. The provisions of this proposed rule would also be applicable to dealers and vessels federally permitted in the spiny dogfish and Atlantic bluefish fisheries when regulations implementing the Spiny Dogfish Fishery Management Plan (FMP) and Amendment 1 to the Atlantic Bluefish FMP go into effect. This action would improve the collection of fisheries-dependent data by modifying or clarifying several dealer and vessel reporting requirements. Proposed changes to the regulations include increasing the record retention requirement for dealer and vessel records to 3 years; requiring federally permitted dealers to complete all sections of the Annual Processed Products Report; clarifying that a vessel

logbook report needs to be submitted for each trip taken, not for each day of a trip; amplifying the existing requirement that vessel logbook reports must be completed prior to entering port with fish; specifying that the pounds recorded on the vessel logbook reports should be the hail weight, by species, of all fish landed or discarded; adding definitions for "hail weight," "serial number," and "trip identifier"; requiring vessel owners/operators to provide trip identifier information to dealers; and clarifying the submission schedule for surf clam and ocean quahog dealer and vessel reports.

DATES: Comments must be received on or before January 3, 2000.

ADDRESSES: Comments on the proposed rule should be sent to Patricia A. Kurkul, Regional Administrator, Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope, "Comments on Proposed Rule for Dealer and Vessel Reporting."

Comments on the burden hour estimates for collection-of-information requirements contained in this proposed rule should be sent to Patricia A. Kurkul and to the Office of Information and Regulatory Affairs, Attention: NOAA Desk Officer, Office of Management and Budget, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kelley McGrath, (978) 281-9307 or Gregory Power, (978) 281-9304.

SUPPLEMENTARY INFORMATION: In order to improve the monitoring of commercial landings and enhance the enforceability of the reporting regulations, this action would clarify or modify several of the existing reporting requirements for dealers and vessels federally-permitted in the summer flounder, scup, black sea bass, Atlantic sea scallop, NE multispecies, monkfish, Atlantic mackerel, squid, butterfly, surf clam or ocean quahog fisheries. Regulations implementing the fishery management plans (FMPs) for the summer flounder, scup, black sea bass, Atlantic sea scallop, NE multispecies, monkfish, Atlantic mackerel, squid, butterfly, surf clam or ocean quahog fisheries were prepared under the authority of the Magnuson-Stevens Fishery Conservation and Management Act and are found at 50 CFR part 648. NMFS intends to issue in the **Federal Register** in the near future final regulations to implement the Spiny Dogfish FMP and Amendment 1 to the Atlantic Bluefish FMP, which contain reporting requirements for dealers and vessels federally permitted in the spiny dogfish and Atlantic bluefish fisheries, respectively. The provisions of this

proposed rule, if approved and implemented, would be incorporated into the final rules implementing that FMP and amendment.

Dealer Reporting Changes

This action would modify three requirements affecting summer flounder, scup, black sea bass, Atlantic sea scallop, NE multispecies, monkfish, Atlantic mackerel, squid, butterfly, bluefish, or spiny dogfish dealers and two requirements affecting surf clam or ocean quahog dealers.

Current regulations for summer flounder, scup, black sea bass, Atlantic sea scallops, NE multispecies, monkfish, Atlantic mackerel, squid, and butterfly and proposed regulations for bluefish and spiny dogfish require any dealer to have been issued a Federal dealer permit for that species. Federally permitted dealers must submit, on a weekly basis, comprehensive trip-by-trip written reports listing all species purchased. In order for each fishing trip to be uniquely identifiable and to aid in matching dealer data with the corresponding vessel data, one of the data elements that dealers are required to provide on the weekly reports is a "trip identifier" for each trip from which fish are purchased. This action would define a "trip identifier" to mean the serial number of the vessel logbook completed for that trip, if applicable, or a combination of the date sailed and, if the vessel sailed more than once on the same day, the sequential trip number within that date sailed.

Dealers issued a summer flounder, scup, black sea bass, Atlantic sea scallop, NE multispecies, monkfish, Atlantic mackerel, squid, and butterfly, bluefish, or spiny dogfish permit would be required to complete all sections of the Annual Processed Products Report. Dealers are currently required to complete only the Employment Data section of the report. Most dealers, however, complete the other sections of the report on a voluntary basis. Mandatory completion of the entire report by dealers would provide NMFS with a more accurate database on the processing segment of the industry.

This action would increase the record retention requirement for dealer reports from 1 year to 3 years. All federally permitted dealers would be required to retain copies of reports and records upon which the reports were based for 3 years after the date of the last entry on the report. This timeframe is in keeping with standard business practices and would allow for validation of past landings reported by dealers and vessels.

To ensure that quotas in the surf clam and ocean quahog fisheries are not exceeded, harvest levels must be monitored on a timely basis. Thus, surf clam and ocean quahog dealer reports would be required to be postmarked or received within 3 days of the end of the reporting week. While dealers have historically provided these data on a weekly basis, this action would clarify that reports must be submitted within the specified timeframe.

Vessel Reporting Changes

This action would modify four requirements affecting summer flounder, scup, black sea bass, Atlantic sea scallop, NE multispecies, monkfish, Atlantic mackerel, squid, and butterfly vessels and proposed requirements affecting bluefish or spiny dogfish vessels. This action also would modify two requirements affecting surf clam or ocean quahog vessels.

To enable summer flounder, scup, black sea bass, NE multispecies, monkfish, Atlantic mackerel, squid, butterfly, bluefish, and spiny dogfish dealers to meet their requirement to provide a "trip identifier" for each trip from which species are purchased, this rule would require vessel owners/operators to supply dealers with the trip identifier information at the time of offloading. To expedite this process, the fishing vessel logbooks include two copies of each report provided expressly for this purpose.

Regulations requiring vessels to submit fishing log reports would be revised to clarify that such reports need to be submitted only for each trip taken, rather than for each day of a trip. The current regulations state that vessels must submit an "accurate daily fishing log report" for all trips. To clarify that a report must be submitted only for each fishing trip, the word "daily" would be removed.

Under the current regulations, vessel logbooks must be filled out, except for information not yet ascertainable, before offloading or landing has begun. Among other things vessel owners/operators must report the pounds, by species, of all fish landed or discarded. Because many vessel owners/operators interpret the pounds landed to be the exact pounds sold to the dealer, which is not ascertainable prior to offloading or landing, many vessel operators copy the catch information from the dealer receipts after the catch has been sold.

To ensure that catch information is completed on the vessel logbook report prior to entering port with fish, this action would clarify that vessel owners/operators must report an estimated hail weight, by species, of all fish landed or

discarded, rather than an exact weight. "Hail weight" would be defined to mean a good-faith estimate, in pounds for commercial vessels and in count for party and charter vessels, by species, of all fish landed or discarded for each trip.

The rule would further require that all information other than that which is unascertainable at the time of entering port with fish (i.e., dealer name, dealer permit number, and date sold) must be completed on the vessel logbook report prior to entering port with fish. The rule would continue to require that information not ascertainable at the time of entering port be completed on the report as soon as the information becomes available. These changes would discourage vessels from copying exact pounds from the dealer weighout after offloading their catch, while also clarifying, for enforcement purposes, which information must be completed prior to vessels entering port.

Current regulations require copies of vessel log reports and records upon which the reports were based to be retained for 1 year after the date of the last entry on the report. This action instead would require vessel log reports and records for any federally permitted vessel to be retained for 3 years after the date of the last entry on the report.

To better monitor harvest levels of surf clams and ocean quahogs, the surf clam and ocean quahog vessel log reports would be required to be postmarked or received within 3 days of the end of the reporting week. While vessel owners have historically provided these data on a weekly basis, this action would clarify that reports must be submitted within the specified time frame.

Classification

Notwithstanding any other provision of the 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 requirements of the Paperwork Reduction Act (PRA) unless that collection of information displays a currently valid Office of Management and Budget (OMB) control number.

This proposed rule contains a collection-of-information requirement subject to review and approval by the OMB under the PRA and clarifies or modifies requirements previously approved under OMB Control No. 0648-0229 (2 minutes per response for dealer purchase reports, 4 minutes for Interactive Voice Response System reports, and 30 minutes for shellfish processor reports); OMB Control No. 0648-0212 (5 minutes per response for

vessel logbook reports and 12 minutes for shellfish logs); and OMB Control No. 0648-0018 (30 minutes per response for processed products reports and 15 minutes for fish meal and oil production reports). The requirement to complete all sections of the Annual Processed Products Report has been submitted to OMB for approval under control number 0648-0018. Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Public comment is sought regarding whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility, the accuracy of the burden estimate, ways to enhance the quality, utility, and clarity of the information to be collected, and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments regarding this burden estimate, or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS and OMB (see ADDRESSES).

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule, if adopted as proposed, would not have significant impact on a substantial number of small entities as follows:

This action would modify or clarify the collection of fisheries-dependent data by modifying or clarifying existing reporting requirements for dealers and vessels issued a Federal permit for summer flounder, scup, black sea bass, Atlantic sea scallops, Northeast multispecies, monkfish, Atlantic mackerel, squid, butterfish, surf clams or ocean quahogs. The provisions of this proposed rule also would be applicable to dealers and vessels federally permitted in the spiny dogfish and the Atlantic bluefish fisheries when regulations implementing the Spiny Dogfish Fishery Management Plan (FMP) and Amendment 1 to the Atlantic Bluefish FMP go into effect. Proposed changes include: increasing the record retention requirement for dealer and vessel reporting requirements; requiring federally permitted dealers to complete all sections of the Annual Processed Products Report; clarifying that a vessel logbook report needs to be submitted for each trip taken, not for each day of a trip; amplifying the existing requirement that vessel logbook reports must be completed prior to entering port with fish; specifying that the pounds recorded on the vessel logbook reports should be the hail

weight, by species, of all fish landed or discarded; adding definitions for "hail weight," "serial number," and "trip identifier;" requiring vessel owners/operators to provide trip identifier information to dealers; and clarifying the submission schedule for surf clam and ocean quahog dealer and vessel reports. The intent of this proposed rule is to improve the collection of fisheries-dependent data under the Magnuson-Stevens Fishery Conservation and Management Act.

Recordkeeping and reporting requirements currently apply to all of the vessels and dealers participating in the fisheries affected by the proposed revisions except for the spiny dogfish and Atlantic bluefish fisheries. Other rulemaking would impose recordkeeping and reporting requirements on the spiny dogfish fishery and Atlantic bluefish fishery. According to the Northeast Region's permit database, there are approximately 700 dealers and 4,000 vessels that would be affected by this rule, if implemented. The proposed action would increase the record retention schedule for dealer and vessel reports from 1 year to 3 years. For dealers not employing electronic recordkeeping methods, the retention of records for an additional 2-year period could potentially involve additional storage space. However, no additional burden cost is expected from this requirement because many dealers currently retain the records for at least 3 years in keeping with standard business practices and thus would not require additional storage space. Dealers of certain species would be required to complete and submit all sections of the Annual Processed Product Report. Dealers are currently required to complete only the Employment Data section of the report. Most dealers, however, complete the other sections of the report on a voluntary basis. Based on an average dealer response time of 30 minutes per year, the total annual burden is 350 hours. Based on an average wage rate of recordkeeping staff of \$20/hour, the total burden cost to dealers to comply with this requirement is estimated at \$7,000 annually. Regulations requiring vessels to submit fishing log reports would be clarified to indicate that a vessel logbook report needs to be submitted for each trip taken, rather than for each day within a trip. This change only clarifies existing regulations and does not implement any changes to the current reporting methods. Under the current regulations, vessel logbooks must be filled out, except for information not yet ascertainable, before offloading or landing has begun. Among other things vessel owners/operators interpret the pounds landed to be the exact pounds sold to the dealer, which is not ascertainable prior to offloading or landing. Many vessel operators copy the catch information from the dealer receipts after the catch has been sold. To ensure that catch information is completed on the vessel logbook report prior to entering port with fish, this action would clarify that vessels must report an estimated "hail weight," by species, of all fish landed or discarded, rather than an exact weight and "hail weight" would be defined. This requirement clarifies existing regulations and does not implement any changes to the

current reporting methods. Under the proposed measures, permitted dealers would be required to include "trip identifier" information in either one or two additional columns on the report form. In order for each fishing trip to be uniquely identifiable and to aid in matching dealer data with the corresponding vessel data, dealers are required to provide on the weekly reports a "trip identifier" for each trip from which fish are purchased. The term would be defined to mean the serial number of the vessel logbook completed for that trip, if applicable, or a combination of the date sailed and, if the vessel sailed more than once on the same day, the sequential trip number within that data sailed. Vessel owners/operators would need to supply trip identifier information to dealers at the time of offloading. No additional burden cost is expected from this requirement. To ensure that quotas in the surf clam and ocean quahog fisheries are not exceeded, harvest levels must be monitored on a timely basis. The submission schedule for surf clam and ocean quahog dealer and vessel reports would be specified to require reports to be postmarked or received within 3 days of the end of the reporting week. While dealers and vessel owners/operators have historically provided these data on a weekly basis, this action would clarify that reports must be submitted within 3 days of the end of the reporting week. Approximately 25 dealers and 120 vessels owners would be required to submit reports within 3 days of the end of the reporting week. No additional costs would be incurred by either dealers or vessels by specifying the time frame for submissions.

Because these changes modify existing regulations and the information is regularly compiled by dealers and vessel owners for their own business records, providing NMFS with the information is a minimal burden. Therefore, this action will not result in a significant economic impact on dealers or vessel owners.

This rule has been determined to be not significant for the purposes of E.O. 12866.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: November 25, 1999.

Penelope D. Dalton,

*Assistant Administrator for Fisheries,
National Marine Fisheries Service.*

For the reasons set out in the preamble, 50 CFR part 648 is proposed to be 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. Section 648.2 is revised by adding, in alphabetical order, definitions for "Hail weight", "Serial number", and "Trip identifier" to read as follows:

§ 648.2 Definitions.

* * * * *

Hail weight means a good-faith estimate of the pounds landed and the pounds discarded, by species, for each trip.

* * * * *

Serial number means the unique alphanumeric identifier, sequential within a logbook, printed in the upper right corner of each logbook report.

* * * * *

Trip identifier means either the serial number of the vessel logbook report the vessel owner/operator completed for that trip, if applicable, or a combination of the date sailed and, if the vessel sailed more than once on the same date, the sequential trip number within that date sailed.

* * * * *

3. In § 648.7, paragraphs (f)(1)(iii) and (f)(1)(iii) are redesignated as (f)(1)(iii) and (f)(1)(iv), respectively; new paragraph (f)(1)(ii) is added; paragraph (f)(2) is redesignated as paragraph (f)(2)(i) and the first sentence is revised; new paragraph (f)(2)(ii) is added; and paragraphs (a)(3)(i), (b)(1)(i), (c), (e), and (f)(1)(i) first sentence, are revised to read as follows:

§ 648.7 Recordkeeping and reporting requirements.

(a) * * *

(3) * * *

(i) Summer flounder, scup, black sea bass, Atlantic sea scallop, NE multispecies, monkfish, Atlantic mackerel, squid, butterfish, bluefish, or spiny dogfish dealers must complete all sections of the Annual Processed Products Report for all species of fish or shellfish that were processed during the previous year. Reports must be submitted to the address supplied by the Regional Administrator.

* * * * *

(b) * * *

(1) * * *

(i) *Owners of vessels issued a summer flounder, scup, black sea bass, Atlantic sea scallop, NE multispecies, monkfish, Atlantic mackerel, squid, butterfish, bluefish, or spiny dogfish permit.* The owner or operator of any vessel issued a permit for summer flounder, scup, black sea bass, Atlantic sea scallops, NE multispecies, monkfish, Atlantic mackerel, squid, butterfish, bluefish or spiny dogfish must maintain on board the vessel, and submit, an accurate fishing log report for each fishing trip, regardless of species fished for or taken, on forms supplied by or approved by the Regional Administrator. If authorized in writing by the Regional Administrator, vessel owners or

operators may submit reports electronically, for example by using a VMS or other system. At least the following information, and any other information required by the Regional Administrator, must be provided: Vessel name; USCG documentation number (or state registration number, if undocumented); permit number; date/time sailed; date/time landed; trip type; number of crew; number of anglers (if a party or charter boat); gear fished; quantity and size of gear; mesh/ring size; chart area fished; average depth; latitude/longitude (or loran station and bearings); total hauls per area fished; average tow time duration; hail weight, in pounds (or count, if a party or charter vessel), by species, of all species landed or discarded; dealer permit number; dealer name; date sold, port and state landed; and vessel operator's name, signature, and operator permit number (if applicable).

* * * * *

(c) *When to fill out a log report.* Log reports required by paragraph (b)(1)(i) of this section must be filled out with all required information, except for information not yet ascertainable, before entering port with fish. Information that may be considered unascertainable prior to entering port with fish is limited to dealer name, dealer permit number, and date sold. Log reports must be completed as soon as the information becomes available. All information must be filled out before starting the next fishing trip. Log reports required by paragraph (b)(1)(ii) of this section must be filled out before landing any surf clams or ocean quahogs.

* * * * *

(e) *Record retention.* Copies of dealer reports, and records upon which the reports were based, must be retained and be available for review for 3 years after the date of the last entry on the report. Copies of fishing log reports must be retained and available for review for 3 years after the date of the last entry on the log. Dealers must retain required reports and records at their principal place of business.

(f) * * *

(1) * * *

(i) Detailed weekly trip reports, required by paragraph (a)(1)(i) of this section, must be postmarked or received within 16 days after the end of each reporting week. * * *

(ii) Surf clam and ocean quahog reports, required by paragraph (a)(1)(ii) of this section, must be postmarked or received within 3 days after the end of each reporting week.

* * * * *

(2) * * *

(i) Fishing vessel log reports, required by paragraph (b)(1)(i) of this section, must be postmarked or received within 15 days after the end of the reporting month. * * *

(ii) Surf clam and ocean quahog log reports, required by paragraph (b)(1)(ii) of this section, must be postmarked or received within 3 days after the end of each reporting week.

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[FR Doc. 99-31305 Filed 12-1-99; 8:45 am]

BILLING CODE 3510-22-F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 991108298-9298-01; I.D. 092199C]

RIN 0648-AL88

Fisheries of the Exclusive Economic Zone Off Alaska; At-Sea Scales; Community Development Quota Program

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS issues a proposed rule to amend portions of the regulations implementing the equipment and operational requirements for catch weight measurement, observer sampling stations, and observer transmission of data. After the first season of requiring scales and observer sampling stations on specified vessels participating in Community Development Quota (CDQ) fisheries, NMFS has identified aspects of the requirements that need further refinement and correction for effective implementation. This action is necessary to effect those refinements and is intended to further the objectives of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

DATES: Comments must be received by January 3, 2000.

ADDRESSES: Comments may be mailed to Sue Salvesson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802-1668, Attn: Lori Gravel. Hand or courier delivered comments may be sent to the Federal Building, 709 West 9th Street, Room 453, Juneau, AK 99801. Copies of the Regulatory Impact Review/Initial

Regulatory Flexibility Analysis (RIR/IRFA) prepared for this action may be obtained from the same address or by calling the Alaska Region, NMFS, at 907-586-7228. A copy of the September 9, 1997, environmental assessment prepared for the Multispecies Community Development Quota (MS CDQ) Program can be obtained from the same address. Send comments on collection-of-information requirements to the same address and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington DC 20503 (Attn: NOAA Desk Officer).

FOR FURTHER INFORMATION CONTACT:

Alan Kinsolving, 907-586-7228.

SUPPLEMENTARY INFORMATION:

Background

Fishing for groundfish by U.S. vessels in the exclusive economic zone of the Gulf of Alaska and the Bering Sea and Aleutian Islands Management Area is managed by NMFS according to the Fishery Management Plan for Groundfish of the Gulf of Alaska and the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMPs). The North Pacific Fishery Management Council (Council) prepared the FMPs under authority of the Magnuson-Stevens Act. Regulations implementing the FMPs at 50 CFR part 679 and subpart H of 50 CFR part 600 govern fishing by U.S. vessels. Equipment and operational requirements for catch weight measurement appear at 50 CFR 679.28 and equipment and operational requirements for transmission of observer data appear at 50 CFR 679.50.

On February 4, 1998 (63 FR 5836), NMFS published a final rule establishing the performance, technical, operational, maintenance, and testing requirements for scales used to weigh catch at sea. On June 4, 1998 (63 FR 30381), NMFS published a final rule that established the requirements for observer sampling stations and required the use of scales and observer sampling stations on specified vessels participating in CDQ fisheries. Further information on the rationale for, and implementation of, the regulations establishing equipment and operational requirements for catch weight measurement appear in the preambles to these final rules.

The regulations at § 679.28 establish performance and technical requirements for scales and observer sampling stations. They do not require their use in any fishery. The first program to which these requirements applied was the MS CDQ Program. Fishing under the

MS CDQ program was authorized to begin October 1, 1998. Section 211(b)(6)(B) of the American Fisheries Act of 1998 (AFA) requires that by January 1, 2000, all of the 20 catcher/processors listed in section 208(e) of the AFA weigh their catch in all groundfish fisheries off Alaska on a scale approved by NMFS. NMFS will be publishing a separate rule to implement this and other provisions of the AFA.

Following implementation of the regulations at § 679.28, NMFS and affected members of the fishing industry realized that some provisions of the regulations required clarification and refinement. Changes are necessary to ensure NMFS' ability to effectively administer the equipment and operational requirements and to improve the clarity and consistency of the implementing regulations.

On December 17, 1998, NMFS held a public workshop in Seattle, WA, to obtain the views of vessel owners affected by the provisions of § 679.28. Twenty-two industry representatives, representing 26 of the 35 catcher/processors currently affected by the regulations, attended.

Scales Used to Weigh Catch at Sea

This proposed rule would revise § 679.28(b)(2)(iii) to authorize NMFS staff to inspect scales. Inspectors employed by NMFS were inadvertently excluded from the categories of scale inspectors authorized by NMFS to perform scale inspections. In addition, § 679.28(b)(2)(iii) would be revised to eliminate the category scale inspectors employed by a U.S., state, or local weights and measures agency other than a weights and measures agency designated by NMFS from the categories of scale inspectors authorized by NMFS to perform scale inspections on its behalf. Paperwork Reduction Act clearance was not obtained for the information collections necessary for a person to qualify as a scale inspector under this category. As revised, only scale inspectors employed by NMFS or from a weights and measures agency designated by NMFS to perform scale inspections on its behalf would be authorized to inspect scales.

Section 679.28(b)(2)(vii) requires that scale inspectors use forms supplied by the NMFS-designated weights and measures agency. NMFS could more conveniently design and produce inspection report forms. This proposed rule would change this paragraph to allow the use of NMFS-supplied forms.

Vessels required to use NMFS-approved platform or hanging scales must provide test weights that will allow the scale to be tested daily when