

886-6069 before visiting the Region 5 Office.)

Written comments should be sent to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Ryan Bahr at (312) 353-4366.

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final action of the same title which is located in the Rules and Regulations Section of this Federal Register.

Authority: 42 U.S.C. 7401-7671q.

Dated: September 25, 1996.

David A. Ullrich,

Acting Regional Administrator.

[FR Doc. 96-25939 Filed 10-8-96; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 648 and 649

[Docket No. 960926275-6275-01; I.D. 091196A]

RIN 0648-A183

Fisheries of the Northeastern United States; Amendments to the Northeast Multispecies, Atlantic Sea Scallop, and American Lobster Fishery Management Plans

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations to implement Amendment 8 to the Northeast Multispecies, Amendment 6 to the Atlantic Sea Scallop, and Amendment 6 to the American Lobster Fishery Management Plans (FMPs) to provide a framework abbreviated rulemaking process to address gear conflicts in the New England and Mid-Atlantic regions. These amendments propose to: Add an objective to the Atlantic Sea Scallop and Northeast Multispecies FMPs to allow management of gear conflicts in these fisheries (the American Lobster FMP currently has an objective sufficiently broad in scope to allow management of gear conflicts), adapt the framework process currently in place for the Northeast multispecies and Atlantic sea scallop conservation management

programs to allow implementation of a gear conflict management program for all three FMPs, and add a list of management measures to each FMP from which the Council could select future solutions to gear conflicts through the framework adjustment process. The intent of this action is to provide mechanisms to reduce the economic loss caused by gear conflicts.

DATES: Comments on the proposed rule must be received on or before November 18, 1996.

ADDRESSES: Comments on the proposed rule, the amendments, and/or their supporting documents should be sent to Dr. Andrew A. Rosenberg, Director, Northeast Region, NMFS, Northeast Regional Office, 1 Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope "Comments on Gear Conflict Amendments."

Copies of the amendments, their regulatory impact review and the environmental assessment are available from Christopher Kellogg, Acting Executive Director, New England Fishery Management Council, Suntaug Office Park, 5 Broadway, Saugus, MA 01906-1097.

FOR FURTHER INFORMATION CONTACT: Paul H. Jones, Fishery Policy Analyst, 508-281-9273.

SUPPLEMENTARY INFORMATION: The amendments were prepared by the New England Fishery Management Council (Council) in consultation with the Mid-Atlantic Fishery Management Council. On June 6, 1996, the Council voted to approve the amendments for submission to the Secretary of Commerce. This action would amend all of the FMPs currently in effect within the jurisdiction of the Council.

Background

Recent increases in gear conflicts have been attributed to the decline in traditional fisheries, new regulations, and changes in markets that created new incentives to pursue alternative fisheries. These factors, as well as the dissolution of a voluntary agreement between industry sectors, have precipitated the need for gear conflict frameworks.

A framework action could be used to address gear conflicts occurring only in Federal waters. NMFS assumes that the Council intends us to use the proposed gear conflict framework procedure to address true gear conflicts and not as a procedure for addressing essentially allocation issues between users. NMFS solicits comments concerning its interpretation of the Council's intent.

For the purpose of these proposed amendments, the definition of gear

conflict (at 50 CFR 600.10) is any incident at sea involving one or more fishing vessels: (1) In which one fishing vessel or its gear comes into contact with another vessel or the gear of another vessel, and (2) that results in the loss of, or damage to, a fishing vessel, fishing gear, or catch.

The amendments would establish a framework process that could be used to devise specific programs tailored to specific gear conflict situations. This process would be similar to the framework process currently in place for management measures designed to meet conservation objectives. At least two publicly announced meetings would be required to be held to discuss and receive comment on any proposal before submission of any framework measures to the Director, Northeast Region, NMFS, for submission as a final rule. In addition, the Council would be required to provide the public with appropriate justification and the economic and biological analysis of the measures. Since any proposed measure would affect fisheries under at least two FMPs, the measures would be required to be evaluated and approved by the relevant committees with oversight authority for the affected FMPs. If there is disagreement between committees, the Council would return the proposed framework measures to the standing or ad hoc gear conflict committee for further review and discussion. The management measures submitted by the Council could be published as final rules under certain conditions and would take immediate effect, within the constraints of applicable law.

The measures that could be implemented by framework action to manage gear conflicts would be: (1) Designation of restricted areas in increments no larger than 1-degree squared (2700 mi² (5000.4 km²)), (2) monitoring of a radio channel by fishers, (3) fixed gear location reporting and plotting requirements, (4) standards of operation when gear conflicts occur, (5) fixed gear marking and setting practices, (6) gear restrictions for specific areas (including time and area closures), (7) vessel monitoring systems, (8) restrictions on the number of fishing vessels or amount of gear, and (9) special permit conditions.

Approval of these amendments would establish a process and provide a list of measures as potential options that could be used to resolve gear conflicts. These proposed amendments would not implement any of the measures listed above, but would establish a process requiring opportunities for the public to participate in the adoption and implementation of the measures listed.

To implement one or more of the measures listed, an individual framework action, as described above, would require documentation and analyses sufficient to determine compliance and consistency with all applicable laws.

Classification

Section 304(a)(1)(D) of the Magnuson Fishery Conservation and Management Act (Magnuson Act) requires that regulations proposed by a Council be published within 15 days of the receipt of the amendment and regulations. At this time, NMFS has not determined that the amendments this rule would implement are consistent with the national standards, other provisions of the Magnuson Act and other applicable law. NMFS, in making that determination, will take into account the information, views, and comments received during the comment period.

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

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

The proposed action, by itself, will have no impact on overall revenues. A primary purpose of the framework process and the actions taken under the process is to reduce costs associated with fishing. The impact of any measures to be taken under this proposed framework process would be analyzed at the time such frameworks are proposed. There may be some increases in production costs, e.g. supply costs to properly mark gear, but these would be offset by the anticipated reduction in gear loss. The proposed action is unlikely to materially reduce annual revenues or increase production and compliance costs. Therefore, the economic impacts on small business are not considered to be significant.

List of Subjects

50 CFR Part 649

Fisheries.

50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: October 3, 1996.

Nancy Foster,

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

For the reasons set out in the preamble, 50 CFR parts 648 and 649 are 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. In § 648.55, paragraphs (d) through (f) are redesignated as paragraphs (f) through (h), respectively, new paragraphs (d) and (e) are added, and the section heading and newly redesignated paragraph (f)(3) are revised to read as follows:

§ 648.55 Framework specifications.

* * * * *

(d) The Council may make recommendations to the Regional Director to implement measures in accordance with the procedures described in this subpart to address gear conflict as defined under § 600.10. In developing such recommendation, the Council shall define gear management areas, each not to exceed 2700 mi² (5000.4 km²), and seek industry comments by referring the matter to its standing industry advisory committee on gear conflict, or to any ad hoc industry advisory committee that may be formed. The standing industry advisory committee or ad hoc committee on gear conflict shall hold public meetings seeking comments from affected fishers and develop findings and recommendations on addressing the gear conflict. After receiving the industry advisory committee findings and recommendations, or at any other time, the Council shall determine whether adjustments to, or additional management measures are necessary to address, gear conflicts and in which FMPs modifications are necessary to address such conflicts. If the Council determines that adjustments or additional measures are necessary, it shall develop and analyze appropriate management actions for the relevant FMPs over the span of at least two Council meetings. The Council shall provide the public with advance notice of the availability of the recommendation and the appropriate justification and economic and biological analyses, and opportunity to comment on them prior to and at the second or final Council meeting before submission to the Regional Director. The Council's recommendation on adjustments or additions to management measures for gear conflicts must come from one or more of the following categories:

- (1) Monitoring of a radio channel by fishing vessels.
- (2) Fixed gear location reporting and plotting requirements.

(3) Standards of operation when gear conflict occurs.

(4) Fixed gear marking and setting practices.

(5) Gear restrictions for specific areas (including time and area closures).

(6) Vessel monitoring systems.

(7) Restrictions on the maximum number of fishing vessels or amount of gear.

(8) Special permitting conditions.

(e) The measures shall be evaluated and approved by the relevant committees with oversight authority for the affected FMPs. If there is disagreement between committees, the Council may return the proposed framework adjustment to the standing or ad hoc gear conflict committee for further review and discussion.

(f) * * *

(3) Whether there is an immediate need to protect the resource or to impose management measures to resolve gear conflicts.

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3. In § 648.90, the introductory text to paragraph (b), and paragraph (b)(1) are revised, paragraphs (b)(2) and (b)(3) are redesignated as paragraphs (b)(3) and (b)(4), respectively, a new paragraph (b)(2) is added and newly redesignated paragraph (b)(3)(iii) is revised to read as follows:

§ 648.90 Framework specifications.

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(b) *Within season management action.* The Council may, at any time, initiate action to add or adjust management measures if it finds that action is necessary to meet or be consistent with the goals and objectives of the Northeast Multispecies FMP or to address gear conflicts as defined under § 600.10.

(1) *Adjustment process.* After a management action has been initiated, the Council shall develop and analyze appropriate management actions over the span of at least two Council meetings. The Council shall provide the public with advance notice of the availability of both the proposals and the analysis and opportunity to comment on them prior to and at the second Council meeting. The Council's recommendation on adjustments or additions to management measures, other than to address gear conflicts, must come from one or more of the following categories: DAS changes, effort monitoring, data reporting, possession limits, gear restrictions, closed areas, permitting restrictions, crew limits, minimum fish sizes, onboard observers, minimum hook size and hook style, the use of crucifiers in the hook-gear fishery, fleet sector shares, recreational fishing measures, area

closures and other appropriate measures to mitigate marine mammal entanglements and interactions, and any other management measures currently included in the FMP.

(2) *Adjustment process for gear conflicts.* The Council may develop a recommendation on measures to address gear conflict in accordance with the procedure specified in § 648.55, paragraphs (d) and (e).

(3) * * *

(iii) Whether there is an immediate need to protect the resource or to impose management measures to resolve gear conflicts.

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PART 649—AMERICAN LOBSTER FISHERY

1. The authority citation for part 649 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 649.44, the section heading is revised, paragraphs (e) through (g) are redesignated as paragraphs (f) through (h), respectively, new paragraph (e) is added, and newly redesignated paragraph (f)(3) is revised to read as follows:

§ 649.44 Framework specifications.

* * * * *

(e) The Council may develop a recommendation on measures to address gear conflicts as defined under 50 CFR 600.10 in accordance with the procedure specified in § 648.55, paragraphs (d) and (e).

(f) * * *

(3) Whether there is an immediate need to protect the resource or to impose management measures to resolve gear conflicts; and

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