

parameters, the issues of licensing, channelization, and other complex technical matters are being deferred to a later proceeding. Therefore, because this present action will not result in the provision of these operations, we certify that this action will not have a significant economic impact on a substantial number of small entities.

13. Despite the certification, we have performed a voluntary Initial Regulatory Flexibility Analysis (IRFA), below, to create a fuller record in this proceeding and to give more information to entities, small and not, that might be affected by our action. Written public comments are requested on the IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the *NPRM*. The Commission's Office of Public Affairs, Reference Operations Division, will send a copy of the *NPRM*, including this certification and voluntary analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

#### *A. Need for, and Objectives of, the Proposed Rules*

14. The objective of this action is to provide sufficient spectrum to permit the development of DSRCS technologies to improve the nation's transportation infrastructure and bolster the involvement of United States companies in this emerging industry.

#### *B. Legal Basis*

15. This action is taken pursuant to sections 4(i), 7(a), 303(c), 303(f), 303(g), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), 157(a), 303(c), 303(f), 303(g), and 303(r).

#### *C. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply*

16. The 5.85–5.925 GHz band is currently available to the U.S. Federal Government for Radiolocation purposes, Fixed Satellite Service licensees for international intercontinental links, amateur radio operators and by various entities using part 18 Industrial, Scientific and Medical ("ISM") equipment and part 15 unlicensed device equipment. We note that there are only 45 FSS licenses issued for operation in 5.85–5.925 GHz band and most if not all are held by large corporations. Further, amateur radio operators and the Federal Government do not qualify as small entities. We also note that part 18 ISM devices are protected in this band, which only generate electromagnetic energy, are not used for communication purposes and therefore cannot receive interference or be impacted by this action. Finally,

while part 15 unlicensed devices are permitted to operate in the 5.85–5.875 GHz portion, they do so on an unlicensed, unprotected basis. Further, the Commission has no means to determine the number of small entities that might use unlicensed part 15 equipment that operates in the band at issue. The *NPRM* discusses means by which the potential DSRCS would be able to share the spectrum with incumbent operations and requests comment on ways to ensure such spectrum sharing. Accordingly, we do not believe this action would have a negative impact on small entities that operate in the 5.85–5.925 GHz band, but nevertheless request comment on this assessment.

17. Regarding the Fixed Satellite Service licensees for international intercontinental links, the Commission has not developed a definition of small entities applicable to licensees in the international services. Therefore, the applicable definition of small entity is generally the definition under the SBA rules applicable to Communications Services, Not Elsewhere Classified (NEC).<sup>3</sup> This definition provides that a small entity is expressed as one with \$11.0 million or less in annual receipts.<sup>4</sup> According to the Census Bureau, there were a total of 848 communications services providers, NEC, in operation in 1992, and a total of 775 had annual receipts of less than \$9,999 million.<sup>5</sup> The Census report does not provide more precise data.

18. Regarding the future use of the 5.85–5.925 GHz band by DSRCS equipment, we believe it is too early to make a determination on such operations. A future rulemaking proceeding will propose further technical standards, licensing and service rules and a separate regulatory flexibility analysis will address all issues relevant to that proceeding.

#### *D. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements*

19. We are proposing to allocate this spectrum for a new service. The licensing and technical regulations governing these operations will be addressed in a separate proceeding. Therefore, this proposed action does not create any reporting or compliance requirements.

<sup>3</sup> An exception is the Direct Broadcast Satellite (DBS) Service.

<sup>4</sup> 13 CFR 120.121, SIC code 4899.

<sup>5</sup> 1992 *Economic Census Industry and Enterprise Receipts Size Report*, Table 2D, SIC code 4899 (U.S. Bureau of the Census data under contract to the Office of Advocacy of the U.S. Small Business Administration).

#### *E. Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered*

20. The *NPRM* proposes basic technical rules such as power limits, unwanted emission limits and a frequency stability requirement. It also requests comment on whether operational standards should be adopted to facilitate nation-wide interoperability of DSRCS. The development of DSRCS operational standards could delay the initial deployment of such equipment, but could ultimately result in equal footing for all manufacturers, including small entities, in producing equipment that meets uniform standards. We request comment on further alternatives that might minimize the amount of economic impact on small entities.

#### *F. Federal Rules that May Duplicate, Overlap, or Conflict With the Proposed Rules*

21. None.

#### **List of Subjects in 47 CFR Parts 2 and 90**

Communications equipment, Radio.

Federal Communications Commission.

**Magalie Roman Salas,**  
*Secretary.*

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## **DEPARTMENT OF COMMERCE**

### **National Oceanic and Atmospheric Administration**

#### **50 CFR Part 648**

[I.D. 061998C]

#### **Fisheries of the Northeastern United States; Petition for Rulemaking for Rotational Opening of Georges Bank Closed Areas for Scallop Fishing**

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

**ACTION:** Notice of receipt of petition for rulemaking; request for comments.

**SUMMARY:** NMFS announces receipt of, and requests public comment on, a petition for rulemaking requesting that sea scallop harvest be allowed on a rotational basis in areas of Georges Bank that are currently closed to all vessels capable of catching groundfish, including scallop vessels. David E. Frulla, of Brand, Lowell, and Ryan (Petitioner), has petitioned the Secretary of Commerce (Secretary), on behalf of

the Fisheries Survival Fund, to determine where in the Georges Bank closed areas scallops are large in size and number and where primary groundfish are more susceptible to scallop gear, to better target and optimize scallop fishing while still maximizing recovery of primary groundfish stocks and habitat. The Petitioner requests that when the data collection has been completed, emergency action be taken to open portions of Georges Bank currently closed to scallop fishing, which would be balanced by closing some currently open areas.

**DATES:** Comments on the petition are requested on or before August 31, 1998.

**ADDRESSES:** Copies of the petition for rulemaking are available upon request from Gary C. Matlock, Ph.D., Director, Office of Sustainable Fisheries, NMFS, 1315 East-West Highway, Silver Spring, MD 20910. Comments on the petition should be directed to Dr. Gary C. Matlock at the above address. Please mark the outside of the envelope "Rotational Opening of Scallop Closed Areas."

**FOR FURTHER INFORMATION CONTACT:** Mark R. Millikin, 301-713-2341.

**SUPPLEMENTARY INFORMATION:** The fishery affected by this petition for rulemaking is the Atlantic sea scallop fishery, which is managed under the Fishery Management Plan for the Atlantic Sea Scallop Fishery (FMP). The Secretary has management authority for this species group under the Magnuson-Stevens Fishery Conservation and Management Act. The management unit for this fishery is Atlantic sea scallop (*Placopecten magellanicus*) in U.S. waters of the Atlantic Ocean from North Carolina to Newfoundland along the continental shelf of North America. Implementing regulations for the fishery are found at 50 CFR part 648, subpart D.

The scallop advisory report issued from the 23<sup>rd</sup> Stock Assessment Workshop in March 1997 stated that the current spawning stock biomass (SSB) is at a low level and the level of landings is determined primarily by variations in the number of recruits entering the fishery. On Georges Bank, abundance and fishing mortality are at moderate levels, but this results from approximately one-half of the region currently being closed to fishing via the groundfish closed areas to protect depleted stocks of cod, haddock, and yellowtail flounder. Scallop dredges were included in the fishing ban owing

to their propensity to catch juvenile flatfish and other species whose stocks had collapsed. The scallop stock is rebuilding in these closed areas, but elsewhere on Georges Bank fishing mortality is greater than the current overfishing threshold. Overfishing for Atlantic sea scallops is defined in the FMP as the fishing mortality rate greater than the rate that would maintain an SSB that is 5 percent of the SSB level that would exist without fishing. The report further states that scallops in the Mid-Atlantic region are at a low level of abundance, are overexploited, and are declining. The large 1990 and 1991 year classes have been overfished and incoming recruitment is among the lowest on record. Based on high fishing mortality rates, low stock size, and lack of significant recruitment, the management advice from the Northeast Stock Assessment Workshop is that fishing effort should be reduced immediately and significantly in the Mid-Atlantic region to preserve SSB and to improve yield per recruit. Recent results of the 1997 NMFS survey confirm that trends in abundance and biomass in both the Mid-Atlantic and Georges Bank regions are decreasing.

The Petitioner states that the Georges Bank groundfish closures, which have been in effect since December 1994, are causing an imbalance in fishing effort, thereby making scallop rebuilding more difficult to achieve. He is requesting that information collected from the Georges Bank area on the scallop resource begin by July 1998, after which emergency action should be instituted to open areas of Georges Bank through limited rotational openings, coupled with closures of certain portions of currently open areas. He states that NMFS analyses have already concluded that such rebalancing should help scallop stocks and moderate the worst of the impending economic effects for the scallop fishermen.

NMFS requests interested persons to submit comments on the petition for rulemaking submitted by the Petitioner. NMFS will consider this information in determining whether to proceed with the development of regulations requested by the petition.

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

Dated: June 24, 1998.

**Bruce C. Morehead,**  
*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*  
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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 660

[I.D. 061998B]

#### Western Pacific Fishery Management Council; Public Hearing

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

**ACTION:** Notice of public meeting.

**SUMMARY:** The Western Pacific Fishery Management Council (Council) will hold a public hearing to discuss proposed measures to address the requirements of the Magnuson-Stevens Conservation and Management Act (Magnuson-Stevens Act) through an amendment to all of the Council's fishery management plans that will address new provisions and definitions.

**DATES:** The meeting will be held on July 20, 1998, from 6:00 p.m. to 8:00 p.m.

**ADDRESSES:** The meeting will be held in the conference room of the Western Pacific Fishery Management Council, 1164 Bishop St., Suite 1400, Honolulu, HI, 96813.

**FOR FURTHER INFORMATION CONTACT:** Kitty M. Simonds, Executive Director, at (808) 522-8220.

**SUPPLEMENTARY INFORMATION:** The public is invited to discuss and make recommendations to the Council on the provisions of the Magnuson-Stevens Act pertaining to essential fish habitat, bycatch, fishing sectors, fishing communities, and definitions of overfishing.

#### Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kitty M. Simonds, 808-522-8220 (voice) or 808-522-8226 (fax), at least 5 days prior to the meeting date.

Dated: June 24, 1998.

**Bruce C. Morehead,**  
*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*  
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