Material previously submitted to Docket No. 93–11 will be transferred to Docket NHTSA 98–3397, effective around August 15, 1998.

Effective Date

Since the amendment concerns internal NHTSA procedures and imposes no burden upon any person, notice and public comment thereon are not required by the Administrative Procedure Act. For the same reasons, regulatory analyses are not required, and the amendment may be made effective immediately upon its publication in the **Federal Register**.

List of Subjects in 49 CFR Parts 564 and 571

Imports, Motor vehicle safety, Motor vehicles.

In consideration of the foregoing, 49 CFR parts 564 and 571 are amended as follows:

PART 564—REPLACEABLE LIGHT SOURCE INFORMATION

1. The authority citation for part 564 continues to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117, 30166; delegation of authority at 49 CFR 1.50.

2. Section 564.5(a) is amended by removing ''Attention: Replaceable Light Source Information Docket No. 93–11 (unless the agency has already filed such information in Docket No. 93–11'' and adding ''Attention: Part 564—Replaceable Light Source Information (unless the agency has already filed such information in Docket No. NHTSA 98–3397)''.

3. Section 564.5 is amended by removing ''Docket No. 93–11'' and adding ''Docket No. NHTSA 98–3397'' in paragraphs (c), (d) introductory text, and (d)(4).

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

1. The authority citation for part 571 continues to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30166; delegation of authority at 49 CFR 1.50.

2. Section 571.108 is amended by removing ''Docket No. 93–11'' and adding ''Docket No. NHTSA 98–3397'' in paragraphs S7.7(b) and S7.7(d)(1).

Issued on: August 4, 1998.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 98–21298 Filed 8–7–98; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 227

[Docket No. 950407093–8201–04; I.D. 063098A]

Endangered and Threatened Species; Threatened Status for the Oregon Coast Evolutionarily Significant Unit of Coho Salmon

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

ACTION: Final rule.

SUMMARY: In 1995, NMFS completed a comprehensive status review of west coast coho salmon (*Oncorhynchus kisutch*) that resulted in proposed listings for three Evolutionarily Significant Units (ESUs), including an Oregon Coast ESU of coho salmon inhabiting coastal streams between Cape Blanco and the Columbia River. After reviewing additional information, including biological data on the species' status and an assessment of protective efforts, NMFS concluded that this ESU did not warrant listing. However, the Oregon District Court recently overturned the decision and remanded the rule back to the agency. The District Court concluded that the ESA does not allow NMFS to consider the biological effects of future or voluntary conservation measures when making a listing determination. In light of the Court's order, the agency now concludes that the Oregon Coast coho salmon ESU warrants listing as a threatened species.

NMFS will issue any protective regulations deemed necessary under section 4(d) of the Endangered Species Act (ESA) for this ESU in a separate rulemaking. Even though NMFS is not issuing protective regulations for this ESU at this time, Federal agencies are required under section 7 of the ESA to consult with NMFS if any activity they authorize, fund, or carry out may affect listed Oregon Coast coho salmon.

In the Oregon Coast ESU, only naturally spawned populations of coho salmon are listed. NMFS has examined the relationship between hatchery and natural populations of coho salmon in this ESU and determined that none of the hatchery populations are currently essential for recovery and, therefore, the hatchery populations are not listed.

DATES: Effective October 9, 1998.

ADDRESSES: Garth Griffin, NMFS, Northwest Region, Protected Species Program, 525 NE. Oregon St., Suite 500, Portland, OR 97232–2737; Kellie Carter, NMFS, Office of Protected Resources, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Rob Jones at (503) 230–5429 or Garth Griffin at (503) 231–2005.

SUPPLEMENTARY INFORMATION:

Previous Federal Actions

The history of petitions received regarding coho salmon is summarized in the proposed rule published on July 25, 1995 (60 FR 38011). The most comprehensive petition was submitted by the Pacific Rivers Council and by 22 co-petitioners on October 20, 1993. In response to that petition, NMFS assessed the best available scientific and commercial data, including technical information from Pacific Salmon Biological and Technical Committees (PSBTCs) in Washington, Oregon, and California. The PSBTCs consisted of scientists from Federal, state, and local resource agencies, Indian tribes, universities, industries, professional societies, and public interest groups with technical expertise relevant to coho salmon. NMFS also established a Biological Review Team (BRT), composed of staff from its Northwest Fisheries Science Center and Southwest Regional Office, which conducted a coastwide status review for coho salmon (Weitkamp et al., 1995).

Based on the results of the BRT report, and after considering other information and existing conservation measures, NMFS published a proposed listing determination (60 FR 38011, July 25, 1995) that identified six ESUs of coho salmon, ranging from southern British Columbia to central California. The Olympic Peninsula ESU was found not to warrant listing, and the Oregon Coast ESU, Southern Oregon/Northern California Coasts ESU, and Central California Coast ESU were proposed for listing as threatened species. The Puget Sound/Strait of Georgia ESU and the lower Columbia River/southwest Washington Coast ESU were identified as candidates for listing. NMFS is in the process of completing status reviews for the latter two ESUs; results and findings for both will be announced in an upcoming **Federal Register** document.

On October 31, 1996, NMFS published a final rule listing the Central California Coast ESU as a threatened species (61 FR 56138). Concurrently, NMFS announced that a 6-month extension was warranted for the Oregon Coast and Southern Oregon/Northern California Coasts ESUs (61 FR 56211), pursuant to section 4(b)(6)(B)(i) of the ESA, due to the fact that there was

substantial disagreement regarding the sufficiency and accuracy of the available data relevant to the listing determination.

On May 6, 1997, NMFS issued a final rule listing the Southern Oregon/Northern California coasts coho salmon ESU as a threatened species (62 FR 24588). In that document, NMFS withdrew its proposed rule to list the Oregon Coast coho salmon ESU as a threatened species, based in part on conservation measures contained in the Oregon Coastal Salmon Restoration Initiative (OCSRI). The OCSRI is a comprehensive conservation plan directed specifically at coho salmon stocks on the coast of Oregon (OCSRI, 1997a). This plan was later expanded to include conservation measures for coastal steelhead stocks (OCSRI, 1997b) and renamed the ''Oregon Plan for Salmon and Watersheds'' (OPSW). For a detailed description of the OPSW, refer to the May 6, 1997, listing determination for Southern Oregon/Northern California coho salmon (62 FR 24588).

Conservation benefits accruing from the Oregon Plan and the subsequent Memorandum of Agreement (MOA) between NMFS and the State of Oregon, April 23, 1997, which further defined Oregon's commitment to salmon conservation, formed a major basis for NMFS' original determination to withdraw the listing proposal for the Oregon Coast coho salmon ESU. In particular, NMFS scientists expressed the view that implementation of OPSW harvest and hatchery reforms may substantially reduce the short-term risk of extinction faced by the Oregon Coast ESU. They also viewed habitat protection and restoration as key to ensuring the long-term survival of the ESU. While NMFS determined that the OPSW contains many programs that will improve habitat conditions for coho salmon, many of these measures needed strengthening to ensure the creation and maintenance of high quality habitat over the long term. Thus, in declining to list the Oregon Coast ESU in May 1997, NMFS relied on the harvest, hatchery and habitat programs in the OPSW, as well as commitments to strengthen habitat measures made in the MOA.

On June 1, 1998, the Federal District Court for the District of Oregon issued an opinion finding NMFS' May 6, 1997, determination regarding the Oregon Coast coho salmon ESU arbitrary and capricious, *Oregon Natural Resources Council et. al* v. *Daley*, CV–97–1155–ST (D. Or. June 1, 1998). The Court vacated NMFS' determination and remanded the case to NMFS for further consideration. In vacating NMFS' decision to withdraw its proposed rule to list the Oregon Coast coho salmon ESU, the Oregon District Court held that the ESA does not allow NMFS to consider the biological effects of future or voluntary conservation measures and that NMFS could give no weight to such measures in its listing determination. NMFS believes this legal interpretation of the ESA is incorrect and is appealing that decision. The District Court and the Ninth Circuit Court of Appeals declined to stay the District Court's order requiring NMFS to make a new decision by August 3, 1998, during the pendency of NMFS' appeal. Therefore, NMFS is issuing the new rule in accordance with the Court's order.

This determination is based solely on information and data contained in the agency's west coast coho salmon administrative record as it existed on May 6, 1997. Although NMFS has received a substantial amount of new information regarding the status of the ESU and efforts being made to protect it, NMFS could not fully integrate that information into the current determination. In order to do so, NMFS would have to reconvene the BRT, the members of which are now fully occupied in finishing NMFS' comprehensive status review of Pacific salmonids. However, NMFS will continue to review the status of the ESU and propose changes as needed.

Species Life History and Status

Biological information for Oregon Coast coho salmon can be found in species status assessments by NMFS (Weitkamp et al., 1995; NMFS, 1997a) and by Oregon Department of Fish and Wildlife (Nickelson et al., 1992; OCSRI 1997a), and in species life history summaries by Laufle et al., 1986; Emmett et al., 1991; and Sandercock, 1991, and by **Federal Register** documents (60 FR 38011, July 25, 1995; 62 FR 24588, May 6, 1997).

Summary of Comments Regarding the Oregon Coast ESU

NMFS held six public hearings in California, Oregon, and Washington to solicit comments on the proposed listing determination for west coast coho salmon. Sixty-three individuals presented testimony at the hearings. During the 90-day public comment period, NMFS received 174 written comments on the proposed rule from state, Federal, and local government agencies, Indian tribes, non-governmental organizations, the scientific community, and other individuals. In accordance with agency policy (59 FR 34270, July 1, 1994), NMFS also requested a scientific peer review of the proposed rule and received responses from two of the seven reviewers. A summary of major public comments pertaining to the Oregon Coast coho salmon ESU (including issues raised by peer reviewers) is presented in NMFS' May 6, 1997, **Federal Register** document (62 FR 24588).

Summary of Factors Affecting Coho Salmon

Section 4(a)(1) of the ESA and NMFS listing regulations (50 CFR part 424) set forth procedures for listing species. The Secretary of Commerce (Secretary) must determine, through the regulatory process, if a species is endangered or threatened based upon any one or a combination of the following factors: (1) The present or threatened destruction, modification, or curtailment of its habitat or range; (2) overutilization for commercial, recreational, scientific, or educational purposes; (3) disease or predation; (4) inadequacy of existing regulatory mechanisms; or (5) other natural or human-made factors affecting its continued existence.

The factors threatening naturally reproducing coho salmon throughout its range are numerous and varied. For coho salmon populations in Oregon, the present depressed condition is the result of several longstanding, human-induced factors (e.g., habitat degradation, water diversions, harvest, and artificial propagation) that serve to exacerbate the adverse effects of natural environmental variability from such factors as drought, floods, and poor ocean conditions.

As noted earlier, NMFS received numerous comments regarding the relative importance of various factors contributing to the decline of coho salmon. A summary of various risk factors and their role in the decline of the Oregon Coast coho salmon ESU is presented in NMFS' May 6, 1997, **Federal Register** document (62 FR 24588), as well as in several documents contained in the agency's west coast coho salmon administrative record (NMFS, 1996, 1997a, and 1997b; OCSRI, 1997a).

Determination

In keeping with the June 1, 1998, order of the Oregon District Court, NMFS has re-assessed the scientific and commercial information available at the time of the May 1997 decision. The BRT report (NMFS, 1997a) concluded that, although the species was not at significant short-term risk of extinction, ''...assuming present conditions continue into the future (and that proposed harvest and hatchery reforms are not implemented), ...this ESU was

likely to become endangered in the foreseeable future.'' Among the BRT's concerns were that this ESU's current abundance was substantially less than it was historically, and both recruitment and recruits-per-spawner declined over a significant portion of the ESU's range. In addition, habitat degradation and inadequate regulatory mechanisms posed continued threats to this species' survival.

While NMFS reaffirms its conclusion that the species is not at significant short-term risk of extinction, i.e, is not endangered, the agency now must find that the species is likely to become endangered in the foreseeable future. This decision is driven by the District Court's order, which precludes NMFS from considering any non-Federal efforts that will take place in the future or are voluntary in nature. Although NMFS still believes these measures should be considered in the listing determination and is appealing the Court's decision, the current determination cannot and does not rely on the application in the future of the harvest and hatchery measures contained in the Oregon Plan, nor the habitat improvement programs being undertaken under the Oregon Plan, nor the commitments made by Oregon in the MOA for improvement of applicable habitat measures. Many of these measures address the reforms considered necessary or important by NMFS. However, in light of the Court's order on factors NMFS may not and should not consider, NMFS must now determine that the Oregon Coast coho salmon ESU warrants listing as a threatened species under the ESA.

As described in agency status reviews (Weitkamp et al., 1995; NMFS, 1997a) and the proposed listing determination for west coast coho salmon (60 FR 38011, July 25, 1995), NMFS defines the Oregon Coast coho salmon ESU to include all native, naturally spawned populations of coho salmon (and their progeny) that are part of the biological ESU and reside below long-term, naturally impassible barriers in streams between the Columbia River and Cape Blanco (Oregon). NMFS has evaluated the status of thirteen hatchery stocks of coho salmon presently reared and released within the range of this ESU (NMFS, 1997a, 1998). Four of these hatchery stocks either are not considered part of the ESU (Fall Creek, Siletz River, and Trask River) or are of uncertain relationship to the ESU (North Fork Nehalem River).

In contrast, NMFS has concluded that fish from nine Oregon hatchery populations (Coos River, Coquille River, Cow Creek, North Umpqua River, Smith River, Tahkenitch/Siltcoos, Alsea River and tributaries, Salmon River, and Fishhawk Creek) are part of this ESU. None of these nine hatchery stocks are presently deemed ''essential'' for the ESU's recovery (58 FR 17573, April 5, 1993). Hence, these hatchery fish are not being listed at this time. However, NMFS recognizes that some of the hatchery populations may play an important role in recovery efforts. The determination that a hatchery stock is not ''essential'' for recovery does not preclude it from playing a role in recovery. Any hatchery population that is part of the ESU is available for use in recovery if needed. In this context, an ''essential'' hatchery population is one that is vital for full incorporation into recovery efforts (for example, if the associated natural population(s) were extinct or at high risk of extinction). Under such circumstances, NMFS would consider taking the administrative action of listing existing hatchery fish.

NMFS' ''Interim Policy on Artificial Propagation of Pacific Salmon Under the Endangered Species Act'' (58 FR 17573, April 5, 1993) provides guidance on the treatment of hatchery stocks in the event of a listing. Under this policy, ''progeny of fish from the listed species that are propagated artificially are considered part of the listed species and are protected under the ESA.'' (58 FR 17573). In the case of four hatchery populations (Coos River, Coquille River, Cow Creek, and Smith River) that are considered part of the Oregon Coast ESU, the protective regulations that NMFS will issue shortly may except certain take of naturally spawned listed fish for use as broodstock as part of an overall conservation program. According to the interim policy, the progeny of these hatchery-wild or wild-wild crosses would also be listed unless the agency determines otherwise. NMFS has determined in these four cases, however, not to consider hatchery-reared progeny of intentional hatchery-wild or wild-wild crosses as listed (NMFS 1998). Coho salmon populations in the Coos, Coquille, and Umpqua River basins are relatively abundant, the take of naturally spawned fish for broodstock purposes will be specifically limited, and NMFS has concluded that none of these four hatchery populations are currently essential for recovery (NMFS, 1998). In addition, NMFS believes it is desirable to incorporate wild fish into these hatchery populations to ensure that their genetic and life history characteristics do not diverge significantly from the natural populations. NMFS, therefore, concludes that it is not inconsistent with NMFS' interim policy, nor with the policy and purposes of the ESA, to consider these progeny part of the ESU but not listed. NMFS may consider taking similar action for other coho salmon hatchery populations in the Oregon Coast ESU, but only after determining that such action would be beneficial or would not compromise the health of naturally spawned populations.

Critical Habitat

Section 4(a)(3)(A) of the ESA requires that, to the extent prudent and determinable, critical habitat be designated concurrently with the listing of a species. Section 4(b)(6)(C)(ii) provides that, where critical habitat is not determinable at the time of final listing, NMFS may extend the period for designating critical habitat by no more than 1 additional year. NMFS finds at this time critical habitat is not determinable for this ESU since required biological data have not yet been collected and analyzed. NMFS, therefore, extends the deadline for designating critical habitat for 1 year until such data can be collected and analyzed.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the ESA include recognition, recovery actions, Federal agency consultation requirements, and prohibitions on taking. Recognition through listing promotes public awareness and conservation actions by Federal, state, and local agencies, private organizations, and individuals. With respect to the Oregon Coast coho salmon ESU, Federal and state efforts are underway (and will continue under the listing) that are expected to slow or reverse the decline of coho salmon in this ESU.

A. Federal Conservation Efforts

Federal efforts include significant protections under the Northwest Forest Plan's Aquatic Conservation Strategy (Forest Ecosystem Management Assessment Team, 1993), the South Slough National Estuarine Research Reserve located in Coos Bay, an upcoming consultation on the North Umpqua Hydroelectric Projects in the Umpqua River basin, and continued road retirement and obliteration on Federal forest lands. In addition, the Natural Resources Conservation Service (NRCS) is currently engaged with NMFS in discussions about updating their Field Office Technical Guides (FOTGs) to better assist landowners in Oregon

desiring to implement voluntary conservation measures protective of, or benefitting, salmonids. A subset of the FOTGs are the guidance that local field offices follow when engaging in actions that may affect anadromous fish or their habitats.

NMFS and U.S. Fish and Wildlife Service are also engaged in an ongoing effort to assist in the development of multiple species Habitat Conservation Plans (HCPs) for state and privately owned lands in Oregon. While section 7 of the ESA addresses species protection associated with Federal actions and lands, Habitat Conservation Planning under section 10 of the ESA addresses species protection on non-Federal lands. HCPs are particularly important since about 65 percent of the habitat in the range of the Oregon coast ESU is in non-Federal ownership. The intent of the HCP process is to reduce conflicts between listed species and economic development activities and to provide a framework that would encourage ''creative partnerships'' between the public and private sectors and state, municipal, and Federal agencies in the interests of endangered and threatened species and habitat conservation.

Section 4(d) of the ESA directs the Secretary to promulgate regulations ''to provide for the conservation of [threatened] species,'' which may include extending any or all of the prohibitions of section 9 of the ESA to threatened species. Section 9(a)(1)(G) also prohibits violations of protective regulations for threatened species promulgated under section 4(d) of the ESA. NMFS will issue any protective regulations deemed necessary under section 4(d) of the ESA for this ESU in a separate rulemaking. Even though NMFS is not issuing protective regulations for this ESU at this time, Federal agencies are required under section 7 to consult with NMFS if any activity they authorize, fund, or carry out may affect listed Oregon Coast coho salmon. The effective date for this requirement is October 9, 1998.

For listed species, section 7(a)(2) of the ESA requires Federal agencies to ensure that activities they authorize, fund, or conduct are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into consultation with NMFS.

Examples of Federal actions most likely to be affected by listing this ESU include U.S. Army Corps of Engineers (COE) section 404 permitting activities under the Clean Water Act; COE section 10 permitting activities under the River and Harbors Act; Federal Energy Regulatory Commission licensing and relicensing for non-Federal development and operation of hydropower; U.S. Environmental Protection Agency promulgation of water quality standards; and activities funded, authorized, or carried out by U.S. Department of Agriculture agencies including, but not limited to, the NRCS. These actions will likely be subject to ESA section 7 consultation requirements, which may result in conditions designed to achieve the intended purpose of the project and avoid or reduce impacts to coho salmon and its habitat within the range of the listed ESU.

There are likely to be Federal actions ongoing in the range of the Oregon Coast ESU at the time that this listing becomes effective. Therefore, within available staffing and funding constraints, NMFS will review all ongoing actions that may affect the listed species with the Federal agencies and will complete formal or informal consultations (where requested or necessary) for such actions as appropriate, pursuant to ESA section 7(a)(2).

Sections 10(a)(1)(A) and 10(a)(1)(B) of the ESA provide NMFS with authority to grant exceptions to the ESA's ''taking'' prohibitions (see regulations at 50 CFR 222.22 through 222.24). Section 10(a)(1)(A) scientific research and enhancement permits may be issued to entities (Federal and non-Federal) conducting research that involves direct take of listed species.

NMFS has issued section 10(a)(1)(A) research or enhancement permits for other listed species (e.g., Snake River chinook salmon, Sacramento River winter-run chinook salmon) for a number of activities, including trapping and tagging to determine population distribution and abundance, and collection of adult fish for artificial propagation programs. NMFS is aware of several sampling efforts for coho salmon in the Oregon Coast ESU, including efforts by Federal and state fisheries agencies, and private landowners. These and other research efforts could provide critical information regarding coho salmon distribution and population abundance.

Section 10(a)(1)(B) incidental take permits may be issued to non-Federal entities to authorize take of listed species incidental to otherwise lawful activities. The types of activities potentially requiring a section 10(a)(1)(B) incidental take permit include the operation and funding of hatcheries and release of artificially propagated fish by the state, state or university research not receiving Federal authorization or funding, the implementation of state fishing regulations, and timber harvest activities on non-Federal lands.

B. Non-Federal Conservation Efforts

As noted previously, conservation benefits accruing from the Oregon Plan and the subsequent MOA formed a major basis for NMFS' original determination to withdraw the listing proposal for the Oregon Coast coho salmon ESU. NMFS will continue to support the OPSW and work with state and non-Federal entities to develop and implement any additional measures needed to protect salmon within this ESU. Because a substantial portion of land in this ESU is in state or private ownership (approximately 65 percent), conservation measures on these lands will be key to this effort.

References

The complete citations for the references used in this document can be obtained by contacting NMFS (see **ADDRESSES**).

Classification

The 1982 amendments to the ESA, in section 4(b)(1)(A), restrict the information that may be considered when assessing species for listing. Based on this limitation of criteria for a listing decision and the opinion in *Pacific Legal Foundation* v. *Andrus*, 675 F. 2d 825 (6th Cir., 1981), NMFS has categorically excluded all ESA listing actions from the environmental assessment requirements of the National Environmental Policy Act (48 FR 4413, February 6, 1984).

As noted in the Conference Report on the 1982 amendments to the ESA, economic impacts cannot be considered when assessing the status of the species. Therefore, the economic analysis requirements of the Regulatory Flexibility Act are not applicable to the listing process. In addition, this final rule is exempt from review under E.O. 12866.

List of Subjects in 50 CFR Part 227

Endangered and threatened species, Exports, Imports, Marine mammals, Transportation.

Dated: August 3, 1998.

Rolland A. Schmitten,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 227 is amended as follows:

PART 227—THREATENED FISH AND WILDLIFE

1. The authority citation of part 227 continues to read as follows:

Authority: 16 U.S.C. 1531–1543; subpart B, § 227.12 also issued under 16 U.S.C. 1361 *et seq.*

2. In § 227.4, paragraph (o) is added to read as follows:

§ 227.4 Enumeration of threatened species.

* * * * *

(o) Oregon Coast coho salmon (*Oncorhynchus kisutch*). Includes all naturally spawned populations of coho salmon in streams south of the Columbia River and north of Cape Blanco in Curry County, OR.

[FR Doc. 98–21255 Filed 8–7–98; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 980716182–8182–01; I.D. 062298C]

Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Technical Amendment

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

ACTION: Final rule; technical amendment.

SUMMARY: NMFS issues a technical amendment to clarify regulations implementing Amendment 5, Framework Adjustments 20, 24, and 25 to the Northeast Multispecies Fishery Management Plan (FMP), and the final rule that consolidated several CFR parts. The purpose of this technical amendment is to comply with the intent of these actions by correcting unintended errors made in the minimum fish size, gillnet tagging, cod hail line, and raised footrope regulations, among other measures.

DATES: Effective August 10, 1998.

FOR FURTHER INFORMATION CONTACT: Susan A. Murphy, Fishery Policy Analyst, 978–281–9252.

SUPPLEMENTARY INFORMATION: The regulations implementing Amendment 5 (59 FR 9872, March 1, 1994) established an exception to the multispecies minimum fish size requirement by allowing persons aboard vessels issued limited access permits and fishing under a day-at-sea (DAS) to possess fillets that measure less than the minimum size. Because the intent of this measure was specific to vessels with multispecies limited access permits, this rule corrects § 648.83(b)(1) by changing the words ''limited access permit'' to ''multispecies limited access permit.''

The interim final rule implementing Framework Adjustment 20 (62 FR 15381, April 1, 1997) established a gillnet gear restriction that requires vessel owners electing to fish under the annual Day gillnet designation to tag their gillnet gear. When implemented, the interim final rule correctly stated that all roundfish gillnets must have two tags per net, and all flatfish gillnets must have one tag per net. However, under the final rule implementing Framework 20 (62 FR 49144, September 19, 1997), roundfish nets were incorrectly identified as groundfish nets. This technical amendment corrects § 648.82(k)(1)(ii) by changing the word ''groundfish'' to ''roundfish.''

The regulation implementing Framework Adjustment 24 (63 FR 11591, March 10, 1998) requires vessels subject to the cod landing limit to come into port and report to NMFS within 14 DAS of starting a trip and vessels that exceed the landing limit to remain in port and not call-out of the DAS program until sufficient DAS has elapsed to account for and justify the amount of cod harvested. For vessels that do not exceed their allowable limit of cod, the regulations clearly state that they must enter port and call-out of the DAS program at least once every 14 DAS. However, for vessels that exceed the limit, the regulation is less clear and states only that these vessels must enter port at least once every 14 DAS and report their hail weight of cod prior to offloading. This technical amendment clarifies and corrects § 648.10(f)(3)(ii) by including language which specifies that, after reporting their hailed weight of cod via the cod hail line, vessels that exceed the allowable limit of cod must remain in port and not call out of the DAS program until after sufficient DAS has elapsed to account for and justify the amount of cod on board. Once vessels have satisfied this required time in port, the next fishing trip may not begin until such time that these vessels have called-out of the multispecies DAS program. Also, in § 648.10(f)(3)(ii), the reference to § 648.86(b)(3) is corrected to read § 648.86(b)(4).

This rule makes several corrections to the regulations implementing Framework Adjustment 25 (63 FR 15326, March 31, 1998). Section 648.80(a)(8)(iv) outlines the raised footrope requirement that may pertain to a vessel fishing in areas known as Small Mesh Area 1 and 2. This rule corrects inadvertent errors in the language describing this gear modification by changing § 648.80(a)(8)(iv)(C) to read that ''the footrope must be at least 20 feet (6.1 m) longer than the length of the headrope'' rather than ''no more than 20 feet (6.1 m) longer.'' Also, § 648.80(a)(8)(iv)(D) is changed to clarify how the sweep and footrope are connected to ensure that the footrope remains off the bottom when towed. The corresponding prohibition, § 648.14(a)(112), is also clarified to reflect that vessels may employ either a raised footrope or an excluder device in their trawl gear when fishing in Small Mesh Area 1 and 2, depending on the species of fish targeted. In addition, in § 648.86(b)(1)(ii), the reference to (b)(1)(3) is corrected to read (b)(3); and in § 648.86(b)(1)(ii)(A), the reference to (b)(3) is corrected to read (b)(4), and the example that is used in this cite is corrected to be more explicit.

Finally, to address an error made in the final rule that consolidated six CFR parts governing the marine fisheries of the Northeast region (61 FR 34966, July 3, 1996), this rule corrects § 648.14(c)(2)(ii) by changing the reference § 648.10(a) to read § 648.10(b).

Classification

Because this rule corrects and clarifies only an existing set of regulations for which full prior notice and opportunity for comment were provided, the Assistant Administrator, under 5 U.S.C. 553(b)(B), finds for good cause finds that it is unnecessary to provide such procedures for this rule. Also, because this rule corrects and clarifies only existing provisions and imposes no new requirements on anyone subject to these regulations, under 5 U.S.C. 553(d)(3), it is not subject to a 30-day delay in effective date.

This rule is exempt from review under E.O. 12866.

Because prior notice and opportunity for public comment are not required for this rule by 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are inapplicable.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.