

establishes. The effective date for a final payment limit may apply to services furnished at least 60 days after the date that the carrier notifies affected suppliers and State Medicaid agencies of the final limit.

(4) *Use of valid and reliable data.* In determining whether a payment amount is excessive or deficient and in establishing an appropriate payment amount, valid and reliable data will be used. To ensure the use of valid and reliable data, CMS or the carrier must meet the following criteria to the extent applicable:

(i) Develop written guidelines for data collection and analysis;

(ii) Ensure consistency in any survey to collect and analyze pricing data.

(iii) Develop a consistent set of survey questions to use when requesting retail prices.

(iv) Ensure that sampled prices fully represent the range of prices nationally.

(v) Consider the geographic distribution of Medicare beneficiaries.

(vi) Consider relative prices in the various localities to ensure that an appropriate mix of areas with high, medium, and low consumer prices was included.

(vii) Consider criteria to define populous State, less populous State, urban area, and rural area.

(viii) Consider a consistent approach in selecting retail outlets within selected cities.

(ix) Consider whether the distribution of sampled prices from localities surveyed is fully representative of the distribution of the U.S. population.

(x) Consider the products generally used by beneficiaries and collect prices of these products.

(xi) When using wholesale costs, consider the cost of the services necessary to furnish a product to beneficiaries.

(5) If CMS or a carrier makes a payment adjustment of more than 15 percent spread over multiple years, CMS or the carrier will review market prices in the years subsequent to the year that the initial reduction is effective in order to ensure that further reductions continue to be appropriate.

(h) *Special payment limit adjustments greater than 15 percent of the payment amount.* In addition to applying the general rules under paragraphs (g)(1) through (g)(4) of this section, CMS applies the following rules in establishing a payment adjustment greater than 15 percent of the payment amount for a category of items or services within a year:

(1) *Potential impact of special limit.* CMS considers the potential impact on quality, access, beneficiary liability,

assignment rates, and participation of suppliers.

(2) *Supplier consultation.* Before making a determination that a payment amount for a category of items or services is not inherently reasonable by reason of its grossly excessive or deficient amount, CMS consults with representatives of the supplier industry likely to be affected by the change in the payment amount.

(3) *Publication of national limits.* If CMS determines under paragraph (h) of this section to establish a special payment limit for a category of items or services, it publishes in the **Federal Register** the proposed and final notices of a special payment limit before it adopts the limit. The notices set forth the criteria and circumstances, if any, under which a carrier may grant an exception to the limit for the category of items or services.

(i) *Proposed notice.* The proposed notice—

(A) Explains the factors and data that CMS considered in determining that the payment amount for a category of items or services is grossly excessive or deficient;

(B) Specifies the proposed payment amount or methodology to be established for a category of items or services;

(C) Explains the factors and data that CMS considered in determining the payment amount or methodology, including the economic justification for a uniform fee or payment limit if it is proposed;

(D) Explains the potential impacts of a limit on a category of items or services as described in paragraph (h)(1) of this section; and

(E) Allows no less than 60 days for public comment on the proposed payment limit for the category of items or services.

(ii) *Final notice.* The final notice—

(A) Explains the factors and data that CMS considered, including the economic justification for any uniform fee or payment limit established; and

(B) Responds to the public comments.

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; Program No. 93.774, Medicare—Supplementary Medical Insurance)

Dated: February 2, 2002.

Thomas A. Scully,
Administrator, Centers for Medicare & Medicaid Services.

Approved: July 22, 2002.

Tommy G. Thompson,
Secretary.

[FR Doc. 02–31126 Filed 12–12–02; 8:45 am]

BILLING CODE 4120–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[WT Docket No. 96–86; FCC 02–216]

The Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Agency Communication Requirements Through the Year 2010

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In view of the Federal Communications Commission's commitment to ultimately require equipment operating in the 764–776 MHz and 794–806 MHz band ("700 MHz public safety band") General Use and State License channels to meet a spectrum efficiency requirement of one voice channel per 6.25 kHz, the Commission in this item adopted a phased-in implementation of (*i.e.*, a "single migration path" to) this spectrum efficiency requirement. The rules adopted are based on the record developed in response to the *Fifth Notice of Proposed Rule Making* in the above-captioned proceeding. These rules are intended to promote the efficient, effective, and maximum use of 700 MHz public safety band General Use and State License channels without hindering development and deployment of public safety equipment. In addition, in order to comport with current international agreements, a Commission rule was revised, which had incorrectly implied that Canadian television signals are entitled to interference protection within the United States.

DATES: Effective January 13, 2003.

FOR FURTHER INFORMATION CONTACT: Roberto Mussenden, Esq., 202/418–0680, rmussend@fcc.gov, Wireless Telecommunications Bureau.

SUPPLEMENTARY INFORMATION: This is a summary of the Federal Communications Commission's Report and Order, FCC 02–216, adopted on July 16, 2002, and released on August 2, 2002. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, SW., Washington, DC 20554. The complete text may be purchased from the Commission's copy contractor, Qualex International, 445 12th Street, SW., Room CY–B402, Washington, DC 20554. The full text may also be downloaded at: <http://www.fcc.gov>. Alternative formats are available to persons with disabilities by contacting

Brian Millin at (202) 418-7426 or TTY (202) 418-7365 or at bmillin@fcc.gov.

1. In this *Fifth Report and Order*, we adopt a migration path to a 6.25 kHz voice efficiency requirement for the 764-776 MHz and 794-806 MHz band General Use and State License channels. The actions we take today are based on the record developed in response to the *Fifth Notice of Proposed Rule Making* in the above-captioned proceeding. In addition to the adoption of a specific migration path for the General Use and State License channels, we clarify the rule relating to cross-border interference with Canada to comport with current international agreements.

2. In keeping with the Commission's safe harbor guidelines to facilitate use of the 764-776 MHz and 794-806 MHz band, we are mindful that the migration path we adopt today must not hinder the development and deployment of public safety equipment nor delay the planning and construction of public safety systems in this band. Specifically, we adopt the following measures to ensure efficient, effective and maximized use of the narrowband General Use and State License channels of the 700 MHz public safety band:

- Allow the marketing, manufacture and importation of 12.5 kHz equipment until December 31, 2006.
- Accept applications for filing to use 12.5 kHz equipment that are filed on or before December 31, 2006.
- Accept applications for filing for new systems to use 6.25 kHz equipment that are filed after December 31, 2006.
- Permit legacy licensees to continue using 12.5 kHz based systems until December 31, 2016.
- Permit legacy licensees to purchase dual mode equipment (operates in 12.5 or 6.25 kHz mode) for system expansion or maintenance and operate it in the 12.5 kHz mode until December 31, 2016.
- Ban the marketing, manufacture and importation of equipment that is exclusively 12.5 kHz effective after December 31, 2006.
- Cease type certifying equipment that is exclusively 12.5 kHz after December 31, 2006.
- Require use of 6.25 kHz equipment exclusively effective after December 31, 2016.

I. Procedural Matters

A. Regulatory Flexibility Act

3. Appendix B contains a Final Regulatory Flexibility Analysis (FRFA) with respect to the *Fifth Report and Order*. As required by the Regulatory Flexibility Act, the Commission has prepared the analysis of the possible impact on small entities of the rules and

proposed rules set forth in this document. The Commission's Consumer Information Bureau, Reference Information Center, will send a copy of this *Fifth Report and Order*, including the FRFA, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with the Regulatory Flexibility Act.

II. Final Regulatory Flexibility Analysis

4. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), An Initial Regulatory Flexibility Analysis (IRFA) was incorporated into the *Fourth Report and Order and Fifth Notice of Proposed Rule Making (Fifth NPRM)*, 66 FR 10,632, February 16, 2001, of this proceeding. The Commission sought written public comment on the proposals in the *Fifth NPRM*, including comment on the IRFA. The present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

A. Need for, and Objectives of, the Fifth Report and Order

5. The need is to resolve outstanding migration issues regarding a migration path for the General Use and State License channels located within the 700 MHz public safety band. Resolution entails requiring a 6.25 kHz requirement for the General Use and State License channels. Our objective is to promote the efficient, effective, and maximum use of 700 MHz public safety band and not hinder development and deployment of public safety equipment. Specifically, the rules adopted herein will: Require licensees in the narrowband General Use and State License channels, whose applications are filed after December 31, 2006, to operate only in voice mode using a voice efficiency standard of at least one voice path per 6.25 kHz of spectrum bandwidth; allow licensees in the narrowband General Use and State License channels, whose applications are filed on or before December 31, 2006 ("legacy licensees"), to operate in voice mode using a voice efficiency standard of at least one voice path per 12.5 kHz of spectrum bandwidth until December 31, 2016; allow legacy licensees to buy dual mode equipment (*i.e.*, equipment that operates in 12.5 kHz or 6.25 kHz mode) for system expansion or maintenance; ban the manufacture, importation, and marketing of equipment that only operates on a voice efficiency standard of at least one voice channel per 12.5 kHz of spectrum bandwidth after December 31, 2006; and prevent acceptance of applications for certification of equipment that operates exclusively on a voice efficiency standard of at least one voice channel

per 12.5 kHz of spectrum bandwidth or that lacks the ability to operate on a voice efficiency standard of one voice channel per 6.25 kHz of spectrum bandwidth after December 31, 2006.

B. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

6. No comments were submitted in response to the IRFA. Comments were submitted in response to the *Fifth NPRM* regarding whether different migration paths would be appropriate for public safety entities in rural urban areas based on their different needs.

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

7. The RFA directs agencies to provide a description of and, where feasible, an estimate of, the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as "small business concern" under the Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operations; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

8. A small organization is generally "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field." Nationwide, as of 1992, there were approximately 275,801 small organizations. "Small governmental jurisdiction" generally means "governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000." As of 1992, there were approximately 85,006 such jurisdictions in the United States. This number includes 38,978 counties, cities, and towns; of these, 37,566, or ninety-six percent, have populations of fewer than 50,000. The Census Bureau estimates that this ratio is approximately accurate for all governmental entities. Thus, of the 85,006 governmental entities, we estimate that 81,600 (ninety-one percent) are small entities.

9. *Public Safety Radio Pool Licensees*. As a general matter, Public Safety Radio Pool licensees include police, fire, local government, forestry conservation, highway maintenance, and emergency medical services that draw from a

common pool of spectrum. Spectrum in the 700 MHz public safety band is governed by 47 U.S.C. 337. Non-Federal governmental entities as well as private businesses are licensees for these services. All governmental entities with populations of less than 50,000 fall within the definition of a small entity.

10. *Radio and Television Equipment Manufacturers.* We anticipate that at least six radio equipment manufacturers will be affected by our decisions in this proceeding. According to the SBA's regulations, a radio and television broadcasting and communications equipment manufacturer must have 750 or fewer employees in order to qualify as a small business concern. Census Bureau data indicate that there are 858 U.S. firms that manufacture radio and television broadcasting and communications equipment, and that 778 of these firms have fewer than 750 employees and would therefore be classified as small entities. We do not have information that indicates how many of the six radio equipment manufacturers associated with this proceeding are among these 778 firms. However, Motorola and Ericsson, two of the six manufacturers, are major, nationwide radio equipment manufacturers, and, thus, we conclude that these manufacturers would not qualify as small businesses because, in all likelihood, they have more than 750 employees.

11. *Television Stations.* This proceeding will affect full service TV station licensees (Channels 60–69), TV translator facilities, and low power TV (LPTV) stations. The SBA defines a TV broadcasting station that has no more than \$12 million in annual receipts as a small business. TV broadcasting stations consist of establishments primarily engaged in broadcasting visual programs by TV to the public, except cable and other pay TV services. Included in this industry are commercial, religious, educational, and other TV stations. Establishments primarily engaged in TV broadcasting and which produce taped TV program materials are also included in this industry. Separate establishments primarily engaged in producing taped TV program materials are classified under another NAICS Code, and are defined as small if annual receipts do not exceed \$6 million.

12. There were 1,509 TV stations operating in the nation in 1992. That number has remained fairly constant as indicated by the approximately 1,551 operating TV broadcasting stations in the nation as of February 28, 1997. For 1992 the number of TV stations that produced less than \$10.0 million in

revenue was 1,155 establishments, or approximately 77 percent of the 1,509 establishments. There are currently 95 full service analog TV stations, either operating or with approved construction permits on channels 60–69. In the DTV Proceeding, we adopted a DTV Table that provides only 15 allotments for DTV stations on channels 60–69 in the continental United States. There are seven DTV allotments in channels 60–69 outside the continental United States. Thus, the rules will affect approximately 117 TV stations; approximately 90 of those stations may be considered small businesses. These estimates may overstate the number of small entities since the revenue figures on which they are based do not include or aggregate revenues from non-TV affiliated companies. We recognize that the rules may also impact minority-owned and women-owned stations, some of which may be small entities. In 2000, minorities owned and controlled 23 (1.9 percent) of 1,288 full power commercial TV stations in the United States. According to the U.S. Bureau of the Census, in 1987 women owned and controlled 27 (1.9 percent) of 1,342 commercial and non-commercial TV stations in the United States.

13. There are currently 4,977 TV translator stations and 1,952 LPTV stations. Approximately 1,309 low power TV and TV translator stations are on channels 60–69 which could be affected by policies in this proceeding. The Commission does not collect financial information of any broadcast facility and the Department of Commerce does not collect financial information on these broadcast facilities. We will assume for present purposes, however, that most of these broadcast facilities, including LPTV stations, could be classified as small businesses. As indicated earlier, approximately 77 percent of TV stations are designated under this analysis as potentially small businesses. Given this, LPTV and TV translator stations would not likely have revenues that exceed the SBA maximum to be designated as small businesses.

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

14. The *Fifth Report and Order* does not adopt rules that entail recordkeeping, and/or third-party consultation. However, it does adopt rules that entail certain reporting and compliance requirements. The rules allow legacy licensees (as described in the *Fifth Report and Order*) to operate their systems at a 12.5 kHz voice efficiency standard until December 31,

2016, when these systems must convert to a 6.25 kHz voice efficiency standard on the General Use and State License channels. These legacy licensees must file, through ULS, no later than January 31, 2017, a declaration that they have completed the requisite conversion.

E. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

15. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

16. The rules adopted in the *Fifth Report and Order* are essentially designed to achieve standardization of technology at points in time in the distant future. Therefore, we do not believe that the impact of these rules will be different for smaller entities in the long run. In formulating the rules in the *Fifth Report and Order*, we reduced economic burdens wherever possible for all entities, large and small. The regulatory burdens that we have adopted are necessary to ensure that the public receives the public safety benefits of innovative new services in a prompt and efficient manner. For example, we have adopted technical and operational rules that will promote competition in the equipment market. We believe that the rules must be as competitively and technologically neutral as possible, in order to allow for competing equipment designs and to avoid hindering future innovative technological developments.

17. We note that tighter technical specifications generally allow more intense spectrum use, but may result in higher equipment costs. Conversely, although wider tolerances may allow manufacturers to use less costly component parts in transmitting equipment, they also may result in less efficient spectrum use. Because the Commission is statutorily required to consider the safety of life and property in its consideration of spectrum management issues, we believe that the technical regulations we adopt herein provide a reasonably balanced approach in meeting the Commission's mandate.

18. As for radio equipment for use on the 700 MHz public safety band, we believe that the rules we adopt today will foster competition in the market for radio equipment for use in the 700 MHz public safety band, and thereby increase the opportunity for small entities to enter this market. As for smaller public safety entities, the rules we adopt today are designed to allow them (and all public safety entities) a full 10-year life cycle for equipment they may purchase between now and December 31, 2006. We do not believe there are feasible alternatives to these rules, in that they are the narrowly tailored to allow both early access to the 700 MHz public safety band, and give early entrants into that spectrum a full life span for the equipment they use. Although we considered whether to permit smaller entities, specifically those operating in rural areas, to operate indefinitely using a 12.5 kHz voice efficiency standard, we rejected this approach because we wanted to ensure certainty and consistency of operations by all licensees as described in the *Fifth Report and Order* and to avoid sustaining a viable market for spectrally inefficient equipment.

19. *Report to Congress*: The Commission will send a copy of the *Fifth Report and Order*, including this FRFA, in a report to be sent to Congress pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A). Also, the Commission will send a copy of the *Fifth Report and Order* to the Chief Counsel for Advocacy of the Small Business Administration. In addition, the *Fifth Report and Order* and FRFA (or summaries thereof) will be published in the *Federal Register*. See 5 U.S.C. 604(b).

III. Ordering Clauses

20. Authority for the issuance of this Fifth Report and Order is contained in Sections 4(i), 4(j), 7(a), 302, 303(b), 303(f), 303(g), 303(r), 307(e), 332(a), and 332(c) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 157(a), 302, 303(b), 303(f), 303(g), 303(r), 307(e), 332(a), 332(c).

21. Part 90 of the Commission's Rules, 47 CFR Part 90 is amended as specified in rule changes.

22. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of this *Fifth Report and Order*, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 90

Communications equipment, Radio, Reporting and recordkeeping requirements.

Federal Communications Commission.

Marlene H. Dortch,
Secretary.

Rule Changes

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 90 as follows:

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

1. The authority citation for part 90 continues to read as follows:

Authority: Sections 4(i), 11, 303(g), 303(r), and 332(c)(7) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 161, 303(g), 303(r), 332(c)(7).

2. Section 90.201 is revised to read as follows.

§ 90.201 Scope.

This subpart sets forth the general technical requirements for use of frequencies and equipment in the radio services governed by this part. Such requirements include standards for acceptability of equipment, frequency tolerance, modulation, emissions, power, and bandwidths. Special additional technical standards applicable to certain frequency bands and certain specialized uses are set forth in subparts J, K, N, and R.

3. Section 90.203 is amended by adding paragraphs (m) and (n) to read as follows.

§ 90.203 Certification required.

(m) Applications for part 90 certification received after December 31, 2006 will not be granted to transmitters designed to operate in the voice mode on channels designated in §§ 90.531(b)(5) or 90.531(b)(6) that do not provide at least one voice path per 6.25 kHz of spectrum bandwidth.

(n) Transmitters designed to operate in the voice mode on channels designated in §§ 90.531(b)(5) or 90.531(b)(6) that do not provide at least one voice path per 6.25 kHz of spectrum bandwidth shall not be manufactured in, or imported into the United States after December 31, 2006. Marketing of these transmitters shall not be permitted after December 31, 2006.

4. Section 90.531 is amended by revising paragraphs (b)(5) and (6) and paragraph (d)(1) to read as follows.

§ 90.531 Band Plan.

* * * * *

(b) * * *

(5) *Narrowband state channels*. The following narrowband channels are designated for direct licensing to each state (including U.S. territories, districts, and possessions): 25–36, 65–76, 105–116, 145–156, 185–196, 225–236, 265–276, 305–316, 645–656, 685–696, 725–736, 765–776, 805–816, 845–856, 885–896, 925–936, 985–996, 1025–1036, 1065–1076, 1105–1116, 1145–1156, 1185–1196, 1225–1236, 1265–1276, 1605–1616, 1645–1656, 1685–1696, 1725–1736, 1765–1776, 1805–1816, 1845–1856, 1885–1896. Voice operations on these channels are subject to compliance with the spectrum usage efficiency requirements set forth in § 90.535(d).

(6) *Narrowband general use channels*. All narrowband channels established in paragraph (b) of this section, other than those listed in paragraphs (b)(1), (b)(2), (b)(4) and (b)(5) of this section are designated to public safety eligibles subject to Commission approved regional planning committee regional plans. Voice operations on these channels are subject to compliance with the spectrum usage efficiency requirements set forth in § 90.535(d).

* * * * *

(d) * * *

(1) *Narrowband*. Subject to compliance with the spectrum usage efficiency requirements set forth in § 90.535, two or four contiguous narrowband (6.25 kHz) channels may be used in combination as 12.5 kHz or 25 kHz channels, respectively. The lower (in frequency) channel for two channel combinations must be an odd (*i.e.*, 1, 3, 5 * * *) numbered channel. The lowest (in frequency) channel for four channel combinations must be a channel whose number is equal to 1+(4xn), where n = any integer between 0 and 479, inclusive (*e.g.*, channel number 1, 5, * * * 1917). Channel combinations are designated by the lowest and highest channel numbers separated by a hyphen, *e.g.*, “1–2” for a two channel combination and “1–4” for a four channel combination.

* * * * *

5. Section 90.533 is amended by revising paragraph (a) to read as follows:

§ 90.533 Transmitting sites near the U.S./Canada or U.S./Mexico border.

* * * * *

(a) Public safety transmitters operating in the 764–776 MHz and 794–806 MHz bands must conform to the limitations on interference to Canadian television stations contained in

agreement(s) between the United States and Canada for use of television channels in the border area.

* * * * *

6. Section 90.535 is amended by revising paragraphs (b) and (c) and by adding paragraph (d) to read as follows.

§ 90.535 Modulation and spectrum usage efficiency requirements.

* * * * *

(b) Transmitters designed to operate in the narrowband segment using digital modulation must be capable of maintaining a minimum data (non-voice) rate of 4.8 kbps per 6.25 kHz of bandwidth.

(c) Transmitters designed to operate in the wideband segment using digital modulation must be capable of maintaining a minimum data (non-voice) rate of 384 kbps per 150 kHz of bandwidth.

(d) The following provisions apply to licensees operating in the channels designated in §§ 90.531(b)(5) or 90.531(b)(6).

(1) With the exception of licensees designated in paragraph (d) (2) of this section, after December 31, 2006, licensees may only operate in voice mode in these channels at a voice efficiency of at least one voice path per 6.25 kHz of spectrum bandwidth.

(2) Licensees authorized to operate systems in the voice mode on these channels from applications filed on or before December 31, 2006, may continue operating in the voice mode on these channels (including modification applications of such licensees granted after December 31, 2006, for expansion or maintenance of such systems) at a voice efficiency of at least one voice path per 12.5 kHz of spectrum bandwidth until December 31, 2016.

(3) The licensees designated in paragraph (d)(2) of this section must, no

later than January 31, 2017, file a declaration through the Universal Licensing System that they are operating these channels at a voice efficiency of at least one voice path per 6.25 kHz of spectrum bandwidth.

[FR Doc. 02-31383 Filed 12-12-02; 8:45 am]

BILLING CODE 6712-01-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 011005244-2011-02; I.D. 120902F]

Fisheries of the Northeastern United States; Atlantic Mackerel, Squid, and Butterfish Fisheries; Reopening of Directed Fishery for Loligo Squid

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

ACTION: Directed fishery reopening.

SUMMARY: NMFS announces that commercial quota is available to allow the directed fishery for Loligo squid to remain open. Vessels issued a Federal moratorium permit to harvest Loligo squid in excess of the incidental catch allowance may continue landing Loligo squid after 0001 hours, December 12, 2002. The intent of this action is to allow for the full utilization of the commercial quota allocated to the Loligo squid directed fishery.

DATES: Effective 0001 hours, December 12, 2002, through December 31, 2002.

FOR FURTHER INFORMATION CONTACT: Paul H. Jones, Fishery Policy Analyst, 978-281-9273, fax 978-281-9135, e-mail paul.h.jones@noaa.gov.

SUPPLEMENTARY INFORMATION: Section 648.22 of part 50 CFR requires NMFS to close the directed *Loligo* squid fishery in the EEZ for the remainder of the year when 95 percent of the total annual domestic annual harvest (DAH) has been harvested. The Administrator, Northeast Region, NMFS, based on dealer reports and other available information, determined that 95 percent of the total DAH for *Loligo* squid would be harvested by November 2, 2002 (67 FR 66072, October 30, 2002). Therefore, effective 0001 hours, November 2, 2002, the directed fishery for *Loligo* squid was closed. However, the closure threshold level of *Loligo* harvest was not attained, and NMFS reopened the directed *Loligo* squid fishery from 0001 hours, December 2, 2002, through 0001 hours, December 12, 2002 (67 FR 70556, November 25, 2002). Due to recent bad weather, new projections indicate the closure threshold level of *Loligo* harvest may not be attained. Therefore, NMFS announces that the directed *Loligo* squid fishery will remain open. Vessels issued a Federal moratorium permit to harvest *Loligo* squid in excess of the incidental catch allowance may continue fishing for, retaining and landing *Loligo* squid in excess of the incidental catch allowance after 0001 hours, December 12, 2002, through December 31, 2002.

Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

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

Dated: December 10, 2002.

John H. Dunnigan,

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 02-31444 Filed 12-10-02; 2:41 pm]

BILLING CODE 3510-22-S