

voluntary consensus standards. This rule does not involve “technical standards” as defined by the NTTAA. Therefore, EPA is not considering the use of any voluntary consensus standards.

10. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations

To the greatest extent practicable and permitted by law, and consistent with the principles set forth in the report on the National Performance Review, each Federal agency must make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health and environmental effects of its programs, policies, and activities on minority populations and low-income populations in the United States and its territories and possessions, the District of Columbia, the Commonwealth of Puerto Rico, and the Commonwealth of the Mariana Islands. Because this rule addresses authorizing pre-existing State rules and there are no anticipated significant adverse human health or environmental effects, the rule is not subject to Executive Order 12898.

11. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2). This rule will be effective on the date the rule is published in the **Federal Register**.

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

Authority: This action is issued under the authority of Sections 2002(a), 3006 and

7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: February 12, 2007.

Julie Hagensen,

Acting Regional Administrator, Region 10.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 061020273-7001-03; I.D. 013107C]

Fisheries of the Northeastern United States; Summer Flounder Fishery; Quota Transfer

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

ACTION: Temporary rule; inseason quota transfer.

SUMMARY: NMFS announces that the State of North Carolina is transferring 3,914 lb (1,775 kg) of commercial summer flounder quota to the State of New Jersey from its 2007 quota. By this action, NMFS adjusts the quotas and announces the revised commercial quota for each state involved.

DATES: Effective February 21, 2007 through December 31, 2007, unless NMFS publishes a superseding document in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Douglas Potts, Fishery Management Specialist, (978) 281-9341, FAX (978) 281-9135.

SUPPLEMENTARY INFORMATION: Regulations governing the summer flounder fishery are found at 50 CFR part 648. The regulations require annual specification of a commercial quota that is apportioned among the coastal states from North Carolina through Maine. The process to set the annual commercial quota and the percent allocated to each state are described in § 648.100.

The final rule implementing Amendment 5 to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan, which was published on December 17, 1993 (58 FR 65936), provided a mechanism for summer flounder quota to be transferred from one state to another. Two or more states, under mutual agreement and with the concurrence of the Administrator, Northeast Region, NMFS (Regional Administrator), can transfer or combine summer flounder commercial quota

under § 648.100(d). The Regional Administrator is required to consider the criteria set forth in § 648.100(d)(3) in the evaluation of requests for quota transfers or combinations.

North Carolina has agreed to transfer 3,914 lb (1,775 kg) of its 2007 commercial quota to New Jersey to cover landings of a North Carolina vessel granted safe harbor in New Jersey after suffering damage as a result of rough seas. The Regional Administrator has determined that the criteria set forth in § 648.100(d)(3) have been met. The revised quotas for calendar year 2007 are: North Carolina, 2,749,866 lb (1,247,318 kg); and New Jersey, 1,682,017 lb (762,950 kg).

Classification

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

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

Dated: February 20, 2007.

James P. Burgess,

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

[FR Doc. 07-862 Filed 2-21-07; 2:26 pm]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 060906236-7028-02; I.D. 083006B]

RIN 0648-AU83

Fisheries of the Northeastern United States; Method For Measuring Net Mesh Size

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

ACTION: Final rule.

SUMMARY: NMFS amends the regulations governing how fishing net mesh size is measured in the Northeast. This change will increase the weight used to measure mesh at or larger than 120 mm in all fisheries. The intent of this rule is to ensure consistent and accurate measurements of fishing net mesh size.

DATES: Effective May 1, 2007.

FOR FURTHER INFORMATION CONTACT: Douglas Potts, Fishery Management Specialist, (978) 281-9341, FAX (978) 281-9135.

SUPPLEMENTARY INFORMATION:

Background

In recent months, fishing industry representatives have expressed concern that net measurements of larger mesh sizes may not result in accurate measurements. They have claimed that the twine bars of stiffer twines for the larger meshes may not align properly under a load of 5 kg, which is the currently required weight for wedge-shaped gauges used to measure nets. In response to these concerns, the New England Fishery Management Council (Council) sent a letter, on April 19, 2006, to the Administrator, Northeast Region, NMFS (RA) requesting that an 8-kg weight be required to be used for meshes at or greater than 120 mm. The Council recommended the 8-kg weight because it appears to be consistent with international standards of net measurements.

Upon consideration of this request and a survey of international standards, and in consultation with law enforcement officials, the RA determined that the Council's request was reasonable and that an increase in the weight of the wedge gauge may result in more accurate and consistent measurements. The 5-kg weight would still be used to measure meshes smaller than 120 mm. Enforcement officials have recently clarified that, in using the wedge-shaped gauge to measure meshes, they will not shake the net or press on the gauge to force it deeper into the mesh opening.

The increased weight is not expected to result in any de facto reduction in legal mesh size. The increased weight is not enough to significantly distort the mesh and is not expected to result in the use of mesh smaller than that considered in previous analyses of environmental impacts.

Comments and Responses

NMFS received seven written comments during the 30-day comment period for the September 26, 2006, proposed rule. Five respondents supported the proposed measure. One individual supported the adoption of a different measurement system for measure net mesh size. One commenter did not refer to the specific rule proposed. Significant issues and concerns are summarized as follows.

Comment 1: One commenter supported the rule and additionally requested that NMFS arrange for training for all law enforcement personnel, including U.S. Coast Guard and state agencies, to assure uniform and consistent measurement of mesh size throughout the region. The commenter further expressed an interest

in the U.S. Coast Guard being available to check net mesh size at the dock, perhaps in conjunction with safety checks.

Response: Although not within the scope of this rule, NMFS encourages coordination among the various law enforcement agencies to ensure consistency in procedures throughout the region. Regarding the presence of U.S. Coast Guard personnel being available to check net mesh size at the dock, the U.S. Coast Guard determines the procedures that it considers most appropriate for its enforcement activities.

Comment 2: Two commenters supported the rule and requested that the heavier weight be used for specific twine thickness or material, in addition to mesh size.

Response: NMFS considers regulations that would require determining the specific twine material and/or thickness at sea would be too difficult to implement and enforce.

Comment 3: One commenter supported the use of increased force for measuring large mesh sizes, but questioned the justification cited in the proposed rule for switching to an 8-kg weight. He felt that the proposed rule was not supported by the report cited, that 8 kg would not produce sufficient force, and that further justification should be provided. The commenter felt that the wedge gauge should be abandoned in favor of the new electronic OMEGA gauge.

Response: NMFS considers the OMEGA gauge, introduced in 2005, as not yet having demonstrated the long-term reliability under field conditions that would be necessary before its adoption as an enforcement tool. Concerns have been raised about the requirement to calibrate the force measurement of the load cell by hanging a calibrated weight from the fixed jaw, since this can only be done under stable conditions that may not be present at sea. In addition, the electronic gauge does not have the long and established legal case history of the wedge gauge.

The international standard EN ISO 16663-1:2003 specifies that a measuring force equivalent to a mass of 8 kg be applied to a wedge gauge for netting of mesh size above 120 mm. It also specifies that a force equivalent to 5 kg be used for mesh size above 50 mm up to 120 mm and a 2-kg weight be used for mesh of 50 mm or less. This final rule is consistent with these accepted international standards.

One commenter did not specifically address the issues in the proposed rule but did express concerns about the pace of NMFS action and the prospects for

marine sanctuaries. This final rule is not the proper mechanism to address these issues.

Classification

This final rule is promulgated under NMFS's general rule making authority specified at 16 U.S.C. 1855(d) in order to carry out and enforce effectively the gear requirements of all Fishery Management Plans (FMPs) administered by the Northeast Region. The RA determined that this final rule is consistent with the Region's FMPs, is necessary for the conservation and management of the fisheries, and determined that the rule is consistent with the Magnuson-Stevens Fishery Conservation and Management Act and other applicable laws.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

The RA has determined that this final rule is a minor technical addition, correction, or change to a management plan and is therefore categorically excluded from the requirement to prepare an Environmental Impact Statement or equivalent document under the National Environmental Policy Act.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification or on the economic impacts of the proposed rule. As a result, a regulatory flexibility analysis was not required and none was prepared.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: February 20, 2007.

Samuel D. Rauch III,

Deputy Assistant Administrator For Regulatory Programs, National Marine Fisheries Service.

■ For the reasons set out in the preamble 50 CFR part 648 is 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 § 648.51, paragraph (a)(2)(ii) is revised to read as follows:

§ 648.51 Gear and crew restrictions.

* * * * *

- (a) * * *
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- (2) * * *

(ii) *Measurement of mesh size.* Mesh size is measured by using a wedge-shaped gauge having a taper of 2 cm (0.79 inches) in 8 cm (3.15 inches) and a thickness of 2.3 mm (0.09 inches), inserted into the meshes under a pressure or pull of 5 kg (11.02 lb) for mesh size less than 120 mm (4.72 inches) and under a pressure or pull of 8 kg (17.64 lb) for mesh size at, or greater than, 120 mm (4.72 inches). The mesh size is the average of the measurements of any series of 20 consecutive meshes for nets having 75 or more meshes, and 10 consecutive meshes for nets having fewer than 75 meshes. The mesh in the regulated portion of the net is measured at least five meshes away from the lacings running parallel to the long axis of the net.

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■ 3. In § 648.80, paragraph (f)(2) is revised to read as follows:

§ 648.80 NE Multispecies regulated mesh areas and restrictions on gear and methods of fishing.

* * * * *

- (f) * * *

(2) *All other nets.* With the exception of gillnets, mesh size is measured by a wedge-shaped gauge having a taper of 2 cm (0.79 inches) in 8 cm (3.15 inches), and a thickness of 2.3 mm (0.09 inches), inserted into the meshes under a pressure or pull of 5 kg (11.02 lb) for mesh size less than 120 mm (4.72 inches) and under a pressure or pull of 8 kg (17.64 lb) for mesh size at, or greater, than 120 mm (4.72 inches).

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■ 4. In § 648.104, paragraph (a)(2) is revised to read as follows:

§ 648.104 Gear restrictions.

* * * * *

- (a) * * *

(2) Mesh size is measured by using a wedge-shaped gauge having a taper of 2 cm (0.79 inches) in 8 cm (3.15 inches), and a thickness of 2.3 mm (0.09 inches), inserted into the meshes under a pressure or pull of 5 kg (11.02 lb) for mesh size less than 120 mm (4.72 inches) and under a pressure or pull of 8 kg (17.64 lb) for mesh size at, or greater than, 120 mm (4.72 inches). The mesh size is the average of the measurements of any series of 20 consecutive meshes for nets having 75 or more meshes, and 10 consecutive meshes for nets having fewer than 75 meshes. The mesh in the regulated

portion of the net is measured at least five meshes away from the lacings, running parallel to the long axis of the net.

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[FR Doc. E7-3241 Filed 2-23-07; 8:45 am]

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DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 665**

[Docket No. 061227341-7031-02; I.D. 120406A]

RIN 0648-AU99

Fisheries in the Western Pacific; Western Pacific Pelagic Fisheries; Hawaii Shallow-set Longline Fishery

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to permanently remove the 7-day delay in effectiveness when closing the Hawaii-based shallow-set longline fishery as a result of reaching interaction limits for sea turtles. This final rule allows for an immediate closure of the fishery to enhance protection for sea turtles.

DATES: This final rule is effective March 28, 2007.

ADDRESSES: Copies of this final rule, the regulatory amendment, environmental assessment, regulatory impact review, and regulatory flexibility analyses may be obtained from William L. Robinson, Administrator, NMFS Pacific Islands Region (PIR), 1601 Kapiolani Boulevard, Suite 1110, Honolulu, HI 96814-4700.

FOR FURTHER INFORMATION CONTACT: Bob Harman, NMFS PIR, 808-944-2271.

SUPPLEMENTARY INFORMATION:**Electronic Access**

This **Federal Register** document is also accessible via the World Wide Web at the Office of the Federal Register: <http://www.gpoaccess.gov/fr/index.html>.

Background

The Hawaii-based pelagic longline fishery for swordfish, tunas, and related species is managed under the Fishery Management Plan for Pelagic Fisheries of the Western Pacific Region (Pelagics FMP). The Pelagics FMP was developed by the Western Pacific Fishery Management Council (Council) under the authority of the Magnuson-Stevens

Fishery Conservation and Management Act (Magnuson-Stevens Act). Regulations governing fishing by U.S. vessels in accordance with the Pelagics FMP appear at 50 CFR part 665 and subpart H of 50 CFR part 600.

The regulations at § 665.33(b)(1) set the maximum allowable annual limits on the numbers of interactions between longline fishing operations and sea turtles. These limits apply to physical interactions with fishing gear deployed from vessels registered under Hawaii longline limited-access permits while engaged in shallow-set longline fishing, i.e., fishing that is directed at swordfish. There are calendar-year annual limits on physical interactions for two species of sea turtles, one for leatherback sea turtles set at 16, and one for loggerhead sea turtles set at 17.

Pursuant to a Section 7 consultation under the Endangered Species Act, NMFS is required by a 2004 Biological Opinion to maintain 100 percent observer coverage in the Hawaii shallow-set longline fishery. Interactions with turtles are monitored using data from scientific observers placed by NMFS aboard all vessels engaged in shallow-set longline fishing.

The current regulations at § 665.33(b)(2) prescribe that as soon as the physical interaction limit for either of the two turtle species has been determined to have been reached in a given year, the shallow-set component of the Hawaii-based longline fishery must be closed by NMFS for the remainder of the calendar year, after giving permit holders at least 7 days advance notice. Once that component of the fishery is closed, no vessel registered under a Hawaii longline limited-access permit may engage in shallow-set longline fishing north of the Equator.

The 7-day delay was intended to give NMFS adequate time to notify permit holders and vessel operators of the fishery closure. Based on the best information available on fishing activity levels and anticipated turtle interaction rates at the time when the regulations were first implemented, the 7-day delay in effectiveness offered by the advance notice provision was thought to provide adequate protection to sea turtles, while also providing adequate notice of the fishery closure to vessels at sea. At the time when the current regulations were implemented, NMFS observers placed aboard longline vessels were not issued satellite telephones, and other communication methods were considered ineffective for immediately notifying vessels at sea of a closure. More effective means of providing immediate notification to active