

References Cited

A complete list of all references cited herein are available upon request (see ADDRESSES).

Classification

Section 4(b)(1) of the ESA restricts the information that may be considered when assessing species for listing. Based on this limitation and the opinion in Pacific Legal Foundation v. Andrus, 657 F.2d 829 (6th Cir. 1981), listing actions under the ESA are excluded from the normal requirements of the National Environmental Policy Act.

As noted in the Conference report on the 1982 amendments to the ESA (H.R. Conf. Rep. No. 835, 97th Cong., 2d Sess 20. (1982)), economic considerations have no relevance to determinations regarding the status of species. Therefore, the economic analysis requirements of Executive Order 12866, the Regulatory Flexibility Act, and the Paperwork Reduction Act are not applicable to the listing process.

Dated: September 28, 1995.

Nancy Foster,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

List of Subjects

50 CFR Part 222

Administrative practice and procedure, Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

50 CFR Part 227

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

For the reasons set out in the preamble, 50 CFR parts 222 and 227 are proposed to be amended as follows:

PART 222—ENDANGERED FISH OR WILDLIFE

1. The authority citation for part 222 is revised to read as follows:

Authority: 16 U.S.C. 1361 et seq. and 1531-1543.

2. In § 222.23, in paragraph (a) after "Saimaa seal (Phoca hispida saimensis);" insert "Steller sea lion (Eumetopias jubatus), western population (the western population consists of Steller sea lions from breeding colonies located west of 144° W. long.);"

* * * * *

3. Section 222.32 is added to subpart D to read as follows:

§ 222.32 Special prohibitions relating to endangered Steller sea lion protection.

General. Special rules relating to endangered Steller sea lions are provided at part 227, subpart B.

PART 227—THREATENED FISH AND WILDLIFE

4. The authority citation for part 227 is revised to read as follows:

Authority: 16 U.S.C. 1361 et seq. and 1531-1543.

§ 227.12 [Amended]

5. In § 227.12, paragraphs (a) introductory text, (a)(1), (a)(2), (a)(4), and (b)(2) are revised to read as follows:

(a) General prohibitions. Except as provided under paragraph (b) of this section, the prohibitions of section 9 of the Act (16 U.S.C. 1538) relating to the western population of Steller sea lions identified at part 222 also apply to the eastern population which consists of Steller sea lions from breeding colonies located east of 144° W. long.

(1) No discharge of firearms or similar devices. Except as provided in paragraph (b) of this section, no person subject to the jurisdiction of the United States may discharge a firearm or similar device at or within 100 yards (91.4 meters) of a Steller sea lion. A firearm or similar device includes any weapon capable of propelling an object resulting in, or likely to result in, injury including, without limitation, guns, crossbows, spearguns, bangsticks, archery gear, harpoons and spears.

(2) No approach in buffer areas. Except as provided in paragraph (b) of this section:

(i) No owner or operator of a vessel may allow the vessel to approach within 3 nautical miles (5.5 kilometers) of a Steller sea lion rookery site listed in paragraph (a)(3) of this section;

(ii) No person may approach on land not privately owned within one-half statutory miles (0.8 kilometers) or within sight of a Steller sea lion rookery site listed in paragraph (a)(3) of this section, whichever is greater, except on Marmot Island; and

(iii) No person may approach on land not privately owned within one and one-half statutory miles (2.4 kilometers) or within sight of the eastern shore of Marmot Island, including the Steller sea lion rookery site listed in paragraph (a)(3) of this section, whichever is greater.

* * * * *

(4) Quota. The incidental mortality and serious injury of endangered and threatened Steller sea lions in commercial fisheries can be authorized in compliance with sections 101(a)(5)

and 118 of the Marine Mammal Protection Act.

(b) * * *

(2) Official activities. The taking of Steller sea lions should be reported within 30 days to the Director, Alaska Region, National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802. Paragraph (a) of this section does not prohibit or restrict a Federal, state or local government official, or his or her designee, who is acting in the course of official duties from:

(i) Taking a Steller sea lion in a humane manner, if the taking is for the protection or welfare of the animal, the protection of the public health and welfare, or the nonlethal removal of nuisance animals; or

(ii) Entering the buffer areas to perform activities that are necessary for national defense, or the performance of other legitimate governmental activities.

* * * * *

[FR Doc. 95-24638 Filed 9-29-95; 1:37 pm]

BILLING CODE 3510-22-W

50 CFR Part 651

[I.D. 092695D]

New England Fishery Management Council; Meeting

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

ACTION: Public meeting; request for comments.

SUMMARY: The New England Fishery Management Council (Council) will hold a 1-day public meeting to consider actions affecting New England fisheries in the exclusive economic zone (EEZ).

DATES: Written comments will be accepted through October 9, 1995, on Framework Adjustment 12 and through October 18, 1995, on draft Amendment 7 to the Fishery Management Plan for the Northeast Multispecies Fishery. The meeting will be held on Wednesday, October 11, 1995, at 10 a.m.

ADDRESSES: The meeting will take place at the Holiday Inn, One Newbury Street, at the intersection of Routes 1 and 128, Peabody, MA 01960; telephone: (508) 535-4600. Requests for special accommodations should be addressed to the New England Fishery Management Council, 5 Broadway, Saugus, MA 01906-1097; telephone: (617) 231-0422.

FOR FURTHER INFORMATION CONTACT: Douglas G. Marshall, Executive Director, New England Fishery Management Council (617) 231-0422.

SUPPLEMENTARY INFORMATION: The Council will consider final action on a framework adjustment to the Northeast Multispecies (Groundfish) Fishery Management Plan (FMP) intended to reduce the incidental take of harbor porpoise in the Gulf of Maine sink gillnet fishery. The Aquaculture Committee report will follow with a discussion for development of a policy or process that could guide future Council actions related to aquaculture in the EEZ. The Groundfish Committee will discuss public comments received to date on draft Amendment 7 to the FMP. This preliminary review is scheduled in light of the volume of information forwarded to the Council. No formal decisions will be made until after the deadline for submission of written comments on the Council's draft Amendment 7 due October 18, 1995. Other business may be added to the agenda as necessary.

**Abbreviated Rulemaking Action—
Framework Adjustment 12 to the FMP**

The Council may take final action on Framework Adjustment 12 to the FMP under the framework for abbreviated rulemaking contained in 50 CFR 651.32. The action would extend the time and area of the Mid-coast Closure Area initiated in Framework Adjustment 4 to reduce the bycatch of harbor porpoise in

the Gulf of Maine sink gillnet fishery. The area closure is presently in effect from November 1 through November 30 of each fishing year and is described below.

<i>Latitude</i>	<i>Longitude</i>
42°45' N.	Massachusetts shore- line
42°45' N.	70°15' W.
43°15' N.	70°15' W.
43°15' N.	69°00' W.
Maine shoreline	69°00' W.

The Council is considering a change that would extend the timing of the closure through December 31 and that would incorporate a region referred to as the Jeffreys Ledge Band west of 69°30' W. Relative to the Mid-coast Closure Area, it is described as east on 42°30' N. from the shore to 70°00' W., north along 70°00' W. to 43°00' N., then east on 43°00' N. to 69°30' W., then north on 69°30' W. to 43°15' N. According to the NMFS sea sampling data base, the harbor porpoise bycatch in this band has been relatively high as compared to other Gulf of Maine areas during previous years. Analyses of 1994 data indicate that bycatch rates in the 1994 fall period were about 3 times higher than those observed since 1991.

The harbor porpoise bycatch issue was discussed at a Marine Mammal Committee meeting held on September

12, 1995, and at the September 13–14, 1995, Council meeting held in Portland, ME. Documents summarizing the Council's proposed action, the biological analyses upon which this decision will be based, and potential economic impacts will be available to the public 5 days prior to the October 11, 1995, meeting. Written comments will be accepted through October 9, 1995, on the abbreviated rulemaking action (Framework Adjustment 12). The Council will consider public comments in making its recommendations to the Director, Northeast Region, NMFS (Regional Director), under the provisions for abbreviated rulemaking cited above. If the Regional Director concurs with the measures proposed by the Council, he will publish them as a final rule in the Federal Register.

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Douglas G. Marshall (see **ADDRESSES**) at least 5 days prior to the meeting date.

Dated: September 28, 1995.

Richard H. Schaefer,
*Director, Office of Fisheries Conservation and
Management, National Marine Fisheries
Service.*

[FR Doc. 95–24675 Filed 10–3–95; 8:45 am]

BILLING CODE 3510–22–W