

Federal Communications Commission.
William F. Caton,
Acting Secretary.
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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 651

[Docket No. 950124025-5255-02; I.D. 100395B]

Northeast Multispecies Fishery; Framework Procedure to Protect Harbor Porpoise

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

ACTION: Final rule; technical amendment.

SUMMARY: NMFS issues this final rule to correct and clarify certain sections of the regulations that implement the framework procedures for adjusting regulatory measures to protect harbor porpoise under the Northeast Multispecies Fishery Management Plan (FMP). This action is necessary to make these measures consistent with the intent of Amendment 5 to the Northeast Multispecies Fishery Management Plan submitted by the New England Fishery Management Council (Council).

EFFECTIVE DATE: October 25, 1995.

FOR FURTHER INFORMATION CONTACT: E. Martin Jaffe, Fishery Policy Analyst, 508-281-9272.

SUPPLEMENTARY INFORMATION:

Regulations implementing Amendment 5 to the FMP were published on March 1, 1994 (59 FR 9872), and corrected on February 2, 1995 (60 FR 6447). Amendment 5, among other provisions, implemented a framework adjustment procedure for the purpose of achieving harbor porpoise mortality reduction goals. The section of the regulations implementing Amendment 5, pertaining to the "reduction of take" measures in the harbor porpoise bycatch of the Gulf of Maine sink gillnet fishery, does not reflect clearly the intent of the Council with respect to the role of the Harbor Porpoise Review Team (HPRT) and the number of meetings required to conclude the procedure.

As written, § 651.32(b)(4) can be read to mean that the recommendations of the HPRT must be published in the Federal Register without analysis or refinement by the Council. This final

rule/technical amendment corrects and clarifies the regulation and relieves the HPRT of the unintended requirement to analyze and refine its own recommendations for publication in the Federal Register.

Section 651.32(b)(4) also can be read to mean that the Regional Director is required to provide the public with any necessary analysis and opportunity to comment on any recommended changes or additions by the HPRT, before the Council adopts them. This final rule/technical amendment corrects and clarifies the regulation and assigns the Council with the responsibility for providing the public with any necessary analysis and opportunity to comment on any changes recommended by the HPRT, as originally intended.

Finally, section 651.32(b)(5) seems to require a minimum of three Council meetings, instead of two, as intended, before the Council shall determine whether to recommend changes or additions to the "reduction of take" measures in the harbor porpoise bycatch of the Gulf of Maine sink gillnet fishery. This final rule clarifies that at least two meetings are required, instead of three, making it consistent with the framework adjustment provisions included elsewhere in the Northeast Multispecies FMP and other FMPs.

Classification

Because this rule only corrects and clarifies the Council's intent regarding a section of an existing regulation for which prior notice and opportunity for public comment were provided, under 5 U.S.C. 553(b)(B) it is unnecessary to provide additional notice and opportunity for comment. Further, in that this rule is merely a clarification with no substantive effect, it is not subject to the 30-day delay in effective date provision of 5 U.S.C. 553(d).

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

List of Subjects in 50 CFR Part 651

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: October 24, 1995.

Richard H. Schaefer,
Acting Assistant Administrator for Fisheries,
National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 651 is amended as follows:

PART 651—NORTHEAST MULTISPECIES FISHERY

1. The authority citation for part 651 continues to read as follows:

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

2. In § 651.32, paragraphs (b)(4) and (b)(5) are revised to read as follows:

§ 651.32 Sink gillnet requirements to reduce harbor porpoise takes.

* * * * *

(b) * * *
(4) Upon receiving the recommendation of the HPRT of any changes or additions to the "reduction of take" measures, the Council will provide the public with any necessary analysis and opportunity to comment on any recommended changes or additions.

(5) After receiving public comment, the Council shall determine whether to recommend changes or additions to the "reduction of take" measures at a Council meeting following the meeting at which it received the HPRT's recommendations.

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[FR Doc. 95-26758 Filed 10-25-95; 10:10 am]

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50 CFR Part 651

[Docket No. 951023256-5256-01; I.D. 101695E]

Northeast Multispecies Fishery; Framework Adjustment 12

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement measures contained in Framework Adjustment 12 to the Northeast Multispecies Fishery Management Plan (FMP). This rule expands and redefines the Mid-coast Closure Area for sink gillnet gear, in both area and time during 1995, to reduce the bycatch of harbor porpoise, while minimizing the loss of fishing opportunity to harvesters using sink gillnet gear.

EFFECTIVE DATE: November 1, 1995.

ADDRESSES: Copies of Amendment 5 to the Northeast Multispecies Fishery Management Plan (Amendment 5), its regulatory impact review (RIR) and the final regulatory flexibility analysis contained with the RIR, its final supplemental environmental impact statement, and Framework Adjustment 12 document are available upon request from Douglas G. Marshall, Executive Director, New England Fishery Management Council (Council), 5 Broadway, Saugus, MA 01906-1097.

FOR FURTHER INFORMATION CONTACT: E. Martin Jaffe, NMFS, Fishery Policy Analyst, 508-281-9272.