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42. Section 90.733 is amended by revising paragraph (a)(3) to read as follows:

§ 90.733 Permissible operations.

(a)

(3) Except for licensees classified as CMRS providers under Part 20 of this chapter, only for the transmission of messages or signals permitted in the services in which the participants are eligible.

[FR Doc. 94-28199 Filed 11-18-94; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

RIN 1018-AA24

Migratory Bird Hunting; Early Seasons and Bag and Possession Limits for Certain Migratory Game Birds in the Contiguous United States, Alaska, Hawaii, Puerto Rico, and the Virgin Islands; Correction

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule; Correction.

SUMMARY: The U.S. Fish and Wildlife Service (hereinafter the Service) is correcting errors made in the September 1, 1994, Federal Register (59 FR 45588) on early seasons and bag and possession limits for certain migratory game birds in the contiguous United States, Alaska, Hawaii, Puerto Rico, and the Virgin Islands. Alabama erroneously selected season dates and shooting hours for mourning doves in the North Zone of September 17-October 30 and December 26-January 10 from 12 noon to sunset, and no dates for shooting hours of ½ hour before sunrise to sunset.

EFFECTIVE DATE: September 1, 1994.

FOR FURTHER INFORMATION CONTACT: Paul R. Schmidt, Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, ms 634-ARLSQ, 1849 C Street, NW., Washington, DC 20240 (703) 358-1714.

SUPPLEMENTARY INFORMATION: In the Federal Register document published on September 1, on page 45590, under Alabama, the mourning dove season dates in the North Zone are corrected to read for shooting hours of 12 noon to sunset as September 17, October 1-October 30, and December 26-January 10; and for shooting hours of ½ hour before sunrise to sunset as September

18-September 30. The daily bag and possession limit is 15.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

Dated: November 9, 1994.

George T. Frampton, Jr.,
Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 94-28700 Filed 11-18-94; 8:45 am]
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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 650

[Docket No. 94111-4311; LD. 102494B]

Atlantic Sea Scallop Fishery

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement Framework Adjustment 2 to the Atlantic Sea Scallop Fishery Management Plan (FMP). This rule implements an exemption from Federal gear regulations for vessels when fishing in state waters under a state scallop management program.

EFFECTIVE DATE: November 16, 1994.

ADDRESSES: Copies of Amendment 4 to the FMP, and its regulatory impact review (RIR), initial regulatory flexibility analysis (IRFA), final supplemental environmental impact statement (FSEIS), and Framework Adjustment 2 are available from Douglas Marshall, Executive Director, New England Fishery Management Council, 5 Broadway, Saugus, MA 01906-1097.

Comments regarding the burden-hour estimates or any other aspect of the collection-of-information requirements contained in this final rule should be sent to Allen E. Peterson, Jr., Acting Regional Director, One Blackburn Drive, Gloucester, MA 01930, and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) (Attention NOAA Desk Officer), Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: Paul H. Jones, Fishery Policy Analyst, 508-281-9273.

SUPPLEMENTARY INFORMATION:

Background

Amendment 4 to the FMP was approved on November 5, 1993, and implemented on March 1, 1994. Amendment 4 changed the primary management strategy from a meat count (size) control to effort control. The FMP controls total fishing effort through limited entry and a schedule of reductions in allowable time at sea. Supplemental measures include gear restrictions, limits on the number of crew members, and vessel restrictions. There are also catch limits for vessels not in the limited access fishery and a framework procedure for adjusting all the management measures in the FMP.

This framework adjustment exempts Federal permit holders from Federal gear restrictions when fishing in state waters under a state management program that has been determined by NMFS not to jeopardize the fishing mortality/effort reduction objectives of the FMP. The principal gear restrictions from which participants in the program are exempted are minimum ring size requirements, restrictions on dredge width, the use of chafing gear, ring configuration and linkage restrictions, and restrictions on spare dredges and nets.

Current state management measures in Maine and Massachusetts and the restrictions proposed by New Hampshire have been determined by NMFS not to jeopardize the fishing mortality/effort reduction objectives of the FMP. All have restrictions that are adequate to address Federal conservation and management concerns because they have overall gear requirements that are more restrictive than Federal regulations and because they apply to scallop resources that are predominantly in state waters. Massachusetts and New Hampshire management measures, in particular, are more restrictive because both include a minimum 3¼-inch (83-mm) ring size requirement in addition to other restrictions on dredge size. The Gulf of Maine and Cape Cod stocks of sea scallops are separate from the major stocks on Georges Bank and in the Mid-Atlantic area, and therefore are not included in the rebuilding program for the fishery. Based on landings, approximately 80 percent of the Gulf of Maine fishery takes place in state waters and its management is predominately a state responsibility.

The purpose of this action is to allow Federal permit holders to compete in the state waters fishery on a more equitable basis where Federal and state laws are inconsistent and to encourage

vessels with general category permits to fish under the exemption program and continue to submit catch and effort data. Not implementing an exemption could force general category vessels that target scallops to cancel their Federal permits and be exempt from all Federal requirements, including reporting of landings while fishing in state waters. These vessels are able to re-apply for a general category permit at anytime. Conversely, limited access permit holders that voluntarily relinquish their permits can not re-apply.

Without this exemption, the most significant inconsistency between the requirements of Federal vs. state sea scallop fishery permit holders occurs in Maine. (Maine does not have ring size restrictions, but both Massachusetts and New Hampshire have regulations that are the same or are more restrictive than Federal regulations.) Maine-permitted boats typically fish with 3-inch (76-mm) rings or smaller. Because the Gulf of Maine sea scallop resource normally consists of beds of spatfall that belong to the same year class and thus all have almost the same shell size, Maine-permitted boats would leave few scallops for federally permitted vessels with 3¼-inch (83-mm) rings or larger. Under this gear exemption program, which allows Federal permit holders to use smaller rings in state waters, Federal permit holders can compete on an equal footing with Maine state-waters-only vessel operators whose dredges have rings that are smaller than allowed under Federal regulations. Although this particular inconsistency does not exist in Massachusetts and New Hampshire, there are other restrictions in those states relating to gear that could create a competitive disadvantage between state and Federal permit holders.

The exemption program also allows Federal permit holders to avoid the cost of changing the rings on existing gear if they intend to use the gear only in state waters.

The impacts of the adjustment fall within the scope of the impacts analyzed in Amendment 4 to the FMP and the FSEIS. The rationale and analyses of expected biological effects, economic impacts, impacts on employment are discussed further in the framework adjustment document (see ADDRESSES).

Comments on Draft Framework No. 2 and Responses

NMFS is amending the scallop regulations following the procedure for framework adjustments established by Amendment 4 and codified in 50 CFR part 650, subpart C. The New England

Fishery Management Council (Council) followed the framework procedure when making this adjustment by developing and analyzing the actions over three Council meetings, on May 11, June 30, and September 21, 1994. The Council provided the public with advance notice of both the proposal and the analysis, and the opportunity to comment on them prior to and at the Council meetings. Upon review of the analysis and public comment (see below), the Council recommended to the Director, Northeast Region, NMFS (Regional Director), that the measures contained in this framework adjustment be published as a final rule. The Regional Director has agreed with this determination.

Comment: One commenter expressed disbelief that fishing in Maine with 3-inch (76-mm) rings and a dredge as small as 4¼ ft (1.4 m) would be a violation.

Response: Current regulations would require Federal permit holders to change the rings on their dredges to 3¼ inches (83 mm) during the 1994-5 season, and again to 3½ inches (89 mm) in 1996, even if they were fishing strictly in state waters. The gear exemption will allow fishermen to continue to use rings smaller than 3¼ inches (83 mm) along with the dredge sizes required by Maine regulations.

Comment: There were two comments dealing with keeping track of vessels and where they fish. One commenter believes that the vessel tracking system (VTS) must be required to accomplish this. The U.S. Coast Guard commented that it will be difficult to determine who is fishing inside and outside of state waters.

Response: The VTS is considered a potential aid to enforcement of this provision but is not essential to its enforcement. When the VTS requirement is implemented, all limited access vessels required to have a VTS under a Federal permit (full-time and part-time vessels) must use them while fishing in the state waters exemption program. Limited access vessels in the occasional category will continue to be required to call in, but general permit holders will not be required to call in while in the state waters exemption program. General permit holders will be required to report landings and other data.

The primary Federal enforcement concern regarding the Gulf of Maine scallop resource is that vessels with state permits only, or with exemptions from Federal requirements, might fish in the Exclusive Economic Zone (EEZ) with gear not meeting Federal requirements. This problem exists

whether or not a gear exemption program for Federal permit holders is implemented. Also, Federal enforcement personnel must still monitor scallop gear used by Federal limited access permit holders. Lists of vessels participating in the exemption program will be given periodically to enforcement agents to minimize problems. Therefore, exempting these vessels should not create any additional enforcement burden.

Comment: The Maine Scallopers Association supported the exemption from the ring size requirements.

Response: The gear exemption program responds to this concern by allowing vessels to fish in state waters with gear that conforms to the requirements of state management programs, provided that the exemption does not jeopardize the achievement of the fishing mortality/effort reduction objectives of the FMP.

Comment: The Maine Scallopers Association was concerned about the cost of VTS and thought that it should not be required while vessels are fishing in state waters.

Response: Vessels will not be required to purchase VTS because of the gear exemption program. Only vessels that will be required to use VTS in the Federal limited access scallop fishery must use it while participating in the state waters fishery.

Classification

This final rule has been determined to be not significant for purposes of E.O. 12866.

The Assistant Administrator for Fisheries, NOAA (AA), finds there is good cause to waive prior notice and opportunity for comment under 5 U.S.C. 553(b)(B). The provision of advance notice as described in this rule and public meetings held by the Council to discuss the management measures implemented by this rule provided adequate prior notice and opportunity for public comment to be considered. Thus, additional opportunity for public comment is unnecessary. Because no proposed rule was required, this action is exempt from the procedures of the Regulatory Flexibility Act. The AA also finds that under section 553(d)(1) of the Administrative Procedure Act, because immediate implementation of this rule relieves a restriction that would require vessels fishing in state waters to fish under the Federal gear requirements, there is no need to delay for 30 days the effectiveness of this regulation.

This rule contains collection-of-information requirements subject to the Paperwork Reduction Act. These requirements have been approved by

OMB under Control Number 0648-0202. The reporting burden is estimated at 2 minutes per response. This time includes reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection-of-information requirement, including suggestions for reducing the burden, to NMFS and OMB (see ADDRESSES).

List of Subjects in 50 CFR Part 650

Fisheries, Reporting and recordkeeping requirements.

Dated: November 16, 1994.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 650 is amended as follows:

PART 650—ATLANTIC SEA SCALLOP FISHERY

1. The authority citation for part 650 continues to read as follows:

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

§ 650.22 [Amended]

2. In § 650.22(a), the phrase "DAS exemption program" is removed and the phrase "state waters exemption program" is added in its place.

3. Section 650.27 is revised to read as follows:

§ 650.27 State waters exemption program.

(a) *DAS exemption.* Any owner of a vessel issued a limited access scallop permit under § 650.4(a) may request an exemption from the DAS Program, in accordance with notification requirements specified in paragraph (c) of this section, while fishing exclusively landward of the outer boundary of a state's waters. Any such exemption granted will exempt the vessel from the DAS requirements specified under § 650.24(c) as long as the vessel complies with paragraphs (c) through (f) of this section.

(b) *Gear restriction exemption.* (1) *Limited access permits.* Any vessel issued a limited access scallop permit for which an exemption has been granted pursuant to paragraph (a) of this section will also be exempted from the gear restrictions specified under § 650.21(a), (b), (e)(1) and (e)(2) while fishing exclusively landward of the outer boundary of the waters of a state that has been listed as an eligible state as specified in paragraph (b)(3) of this section, as long as the vessel complies

with paragraphs (c) through (f) of this section.

(2) *General permits.* Any owner of a vessel issued a general scallop permit shall be exempted from the gear restrictions specified in § 650.21(a), (b), (e)(1) and (e)(2) while fishing exclusively landward of the outer boundary of the waters of a state that has been listed as an eligible state as specified in paragraph (b)(3) of this section, as long as the vessel complies with paragraphs (d) through (f) of this section.

(3) *State eligibility for gear exemption.* (i) Vessels may be granted an exemption from gear restrictions as specified in paragraphs (b)(1) and (2) of this section if such vessels are fishing exclusively landward of the outer boundary of the waters of a state that has been determined by the Regional Director to have an Atlantic sea scallop fishery and a scallop conservation program that does not jeopardize the fishing mortality/effort reduction objectives of the FMP.

(ii) *State eligibility.* The following states have been determined to have an Atlantic sea scallop fishery and a scallop conservation program that do not jeopardize the fishing mortality/effort reduction objectives of the FMP:

- (A) Maine.
- (B) New Hampshire.
- (C) Massachusetts.

(iii) *Changes in state eligibility.* The states that have been determined to be eligible, as specified in paragraph (b)(3)(ii) of this section, shall immediately notify the Regional Director of any changes in their scallop conservation program. The Regional Director will review these changes and, if a determination is made that the state's conservation program jeopardizes the fishing mortality/effort reduction objectives of the FMP or that the state no longer has a sea scallop fishery, the Regional Director shall publish a final rule in the Federal Register terminating that state's eligibility. The Regional Director may add any other state that is determined eligible, as described in paragraph (b)(3) of this section, by publication of a final rule in the Federal Register.

(c) *Notification requirements.* (1) *VTS notification.* Vessel owners requesting a state waters exemption via a VTS shall:

(i) Notify NMFS, via their VTS, prior to the vessel's first trip under the state waters exemption program, that the vessel will be fishing exclusively in state waters; and

(ii) Notify NMFS, via their VTS, prior to the vessel's first planned trip in the EEZ, that the vessel is to resume fishing under the vessel's DAS allocation.

(2) *Telephone notification.* Vessel owners opting to request entry into the state waters exemption program by phone shall:

(i) Notify NMFS by calling 508-281-9335 with the following information at least 7 days prior to the date on which the exemption is requested:

(A) Owner and caller name and address;

(B) Vessel name and permit number, and

(C) Beginning and ending dates of the exemption period;

(ii) Remain in the exemption program a minimum of 7 days; and

(iii) If an exemption holder has been in the program a minimum of 7 days and wishes to withdraw earlier than the designated end of the exemption period, the exemption holder must notify the Regional Director of early withdrawal from the program. Notification of withdrawal is made by calling 508-281-9335. When providing notice, the exemption holder will specify that the request is for withdrawal from the program and provide the vessel name and permit number, and the name and phone number of the caller. The exemption holder may not leave port to fish in the EEZ until 48 hours after notification of early withdrawal is received by the Regional Director.

(d) A vessel participating in the state waters exemption program may not fish in the EEZ during the participation period.

(e) Participation in the state waters exemption program expires when the owner's or vessel's name changes.

(f) Vessels participating in the state waters exemption program continue to be subject to all the other requirements of this part.

[FR Doc. 94-28681 Filed 11-16-94; 4:18 pm]
BILLING CODE 3510-22-W

50 CFR Part 672

[Docket No. 931199-4042; LD. 111094A]

Groundfish of the Gulf of Alaska

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

ACTION: Modification of a closure.

SUMMARY: NMFS is opening directed fishing for Pacific cod in the Western Regulatory Area in the Gulf of Alaska (GOA) by vessels catching Pacific cod for processing by the inshore component. This action is necessary to fully utilize the allocation of the total allowable catch (TAC) of Pacific cod in

the Western Regulatory Area specified for vessels catching Pacific cod for processing by the inshore component.

EFFECTIVE DATE: 12 noon, Alaska local time (A.l.t.), November 19, 1994, until 12 midnight, A.l.t., December 31, 1994.

FOR FURTHER INFORMATION CONTACT: Andrew N. Smoker, 907-586-7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the GOA exclusive economic zone is managed by NMFS according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 672.

In accordance with § 672.20(c)(1)(ii)(B) the allocation of Pacific cod in the Western Regulatory

Area of the GOA for vessels catching Pacific cod for processing by the inshore component was established by the 1994 specifications of groundfish harvest (59 FR 7647, February 16, 1994) as 14,967 metric tons (mt). The directed fishery for Pacific cod by the inshore component closed on March 8, 1994 (59 FR 11209, March 10, 1994).

The Director, Alaska Region, NMFS, has determined that, as of October 22, 1994, 500 mt of the TAC of Pacific cod for the inshore component in the Western Regulatory Area of the GOA remains unharvested. This amount is in excess of the amount necessary as incidental catch by vessels using pot or jig gear in other groundfish fisheries. Directed fishing for groundfish by vessels using hook-and-line or trawl gear is prohibited, because the allocations of Pacific halibut bycatch mortality for those gears have been reached. Therefore, NMFS is

terminating the closure and is opening directed fishing for Pacific cod in the Western GOA by vessels catching Pacific cod for processing by the inshore component effective at 12 noon, A.l.t., November 19, 1994, until 12 midnight, A.l.t., December 31, 1994.

All other closures remain in full force and effect.

Classification

This action is taken under 50 CFR 672.20 and is exempt from review under E.O. 12866.

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

Dated: November 15, 1994.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 94-28596 Filed 11-15-94; 5:01 pm]

BILLING CODE 3510-22-F