

document entitled, "Essential Access Community Hospitals (EACHs) and Rural Primary Care Hospitals (RPCCHs)."

EFFECTIVE DATE: These corrections are effective June 25, 1993.

FOR FURTHER INFORMATION CONTACT: Julie Brown, (410) 966-4669.

SUPPLEMENTARY INFORMATION:

I. Background

On May 26, 1993, we published a final rule titled "Essential Access Community Hospitals (EACHs) and Rural Primary Care Hospitals (RPCCHs)" (58 FR 30630). In the preamble (p. 30638, column 1), we stated that we had revised § 485.610(a)(3) (applicable to potential RPCCHs) to state that a hospital meets the rural location requirement of that section if it is otherwise qualified and has not been classified as an urban hospital for purposes of its standardized amount by HCFA or the Medicare Geographic Classification Review Board. In the corresponding regulations text, however, we incorrectly stated, " * * * has not been classified as an urban hospital for purposes of its wage index adjustment * * * " (emphasis added). We are correcting the regulations text to agree with the preamble statement.

In response to a public comment, we revised § 485.631(a)(1) so that an RPCCH need not have midlevel practitioners on staff if it is staffed at all hours of operation by a doctor of medicine or osteopathy. However, in our standard on patient care policies (§ 485.635), we inadvertently did not make the necessary corresponding revision to paragraph (a)(2). Consequently, the regulation incorrectly requires patient care policies to be developed with the advice of one or more physician assistants, nurse practitioners, or clinical nurse specialists, even if none are on staff. We are correcting § 485.635(a)(2), to require their advice only if they are on staff. This change does not alter the requirement that at least one member of the group of professional personnel not be a member of the RPCCH staff.

II. Corrections

In document number 93-12262 published May 26, 1993 (58 FR 30630), make the following changes:

§ 485.610 [Corrected]

1. On p. 30673, column 1, under § 485.610(a)(3), line 3: "wage index adjustment" is corrected to read "standardized payment amount".

§ 485.635 [Corrected]

2. On p. 30675, column 1, under § 485.635(a)(2), line 7: "specialists;" is

corrected to read, "specialists, if they are on staff under the provisions of § 485.631(a)(1);".

Dated: September 16, 1993.

Fred Wirth,

Acting Deputy Assistant Secretary for Information Resources Management.

[FR Doc. 93-23444 Filed 9-23-93; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AB88

Endangered and Threatened Wildlife and Plants; Determination To Reclassify the Louisiana Pearlshell (*Margaritifera hembeli*) From Endangered to Threatened

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines that the Louisiana pearlshell, *Margaritifera hembeli*, warrants reclassification from endangered to threatened under the authority of the Endangered Species Act (Act) of 1973, as amended. The Louisiana pearlshell, previously known only from the Bayou Boeuf drainage in Rapides Parish, Louisiana, was recently discovered to also exist in the Red River drainage in Grant Parish. Remaining threats are sedimentation from gravel mining, population fragmentation by impoundments, and collecting. However, discovery of the new populations has diminished the apparent degree of threat sufficiently to support a reclassification of the species to threatened. This rule implements the Federal protection and recovery provisions for threatened species as provided by the Act.

EFFECTIVE DATE: October 25, 1993.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at U.S. Fish and Wildlife Service, 6578 Dogwood View Parkway, Suite A, Jackson, MS 39213.

FOR FURTHER INFORMATION CONTACT: Mr. James H. Stewart at the above address (601/965-4900).

SUPPLEMENTARY INFORMATION:

Background

The Louisiana pearlshell was described as *Unio hembeli* by Conrad in 1838. This species was placed in the genus *Margarita* by Lea (1870), then in *Margaritana* by Simpson (1900), and

finally in *Margaritifera* by Athearn (1970). This mussel is about 100 millimeters (mm) (3.9 inches) long, 50 mm (2.0 inches) high, and 30 mm (1.2 inches) wide. The shell is generally elliptical with an angular posterior margin, obtuse undulations on the posterior slope, with a dark brown to black periostracum, and white nacre. The species has been collected from only the Bayou Boeuf drainage, Rapides Parish, and the Red River drainage, Grant Parish, Louisiana. The Alabama population of earlier records is now considered a different species, the Alabama pearlshell, which was described as *Margaritifera marrianae* by Johnson (1983).

The Service initially listed the Louisiana pearlshell as an endangered species on February 5, 1988 (53 FR 3567). Since the initial listing, the species has been discovered in the Red River drainage of Grant Parish. The Service conducted surveys of this drainage in 1991 and 1992 in an effort to completely define the range of the species. The 1991 survey located the species at 12 sites in 8 streams that are tributary to the Red River. The 1992 survey (Hall 1992) confirmed these findings, extended the range within these streams, and searched more than 50 streams in Grant, Rapides, and Winn Parishes, Louisiana. Hall did not locate any additional populations of the Louisiana pearlshell. However, within the Grant Parish portion of the range there are several streams that are on posted private property. Since Hall did not survey streams where he could not get permission to enter the property, it is likely that additional populations of the Louisiana pearlshell occur on private property within the geographic area of the currently known range. The currently known range of this species now consists of 8 streams in the Red River drainage and 11 streams in the Bayou Boeuf drainage. The Red River is a major tributary of the Mississippi River and water from Bayou Boeuf eventually flows into Vermilion Bay of the Gulf of Mexico.

The objective of the 1990 recovery plan for this species was to reclassify it to threatened status by improving the status of populations within the historic occupied range in the Bayou Boeuf drainage. While this objective has not been fully met, the extent of the known range has increased substantially with the discovery of the Red River drainage populations, thus making the danger of extinction much less than originally thought. This expansion of known range and the presence of various size classes, indicating that most if not all populations are successfully

reproducing, provide an adequate basis to reclassify this mussel.

The proposed rule to reclassify the Louisiana pearlshell was published in the *Federal Register* on February 26, 1993 (58 FR 11579).

Summary of Comments and Recommendations

In the February 26, 1993, proposed rule and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. Appropriate State agencies, county governments, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. A newspaper notice that invited general public comment was published in the *Alexandria Daily Town Talk* on March 13, 1993. Two comments were received and are discussed below.

A professional malacologist supported the reclassification, while questioning references to more than one population in the same stream and expressing concern over reclassifying a species without evidence of successful reproduction. The terminology has been changed to denote population sites, with all individuals in a stream representing a single population. Evidence of successful reproduction is present in the form of varying size classes in most, if not all, populations of the Louisiana pearlshell. That information was inadvertently omitted from the proposed rule and has been included in this rule. An individual opposed the reclassification based upon the historic decline in range, continued degradation of habitat, and the threats to the species and its ecosystem. This individual did not provide any substantiating information. The results of recent surveys conducted by the Service document a larger range than known at the time of listing, and also indicate an improvement in habitat and a reduction in threats to the species and its ecosystem due to U.S. Forest Service protection.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that the Louisiana pearlshell should be reclassified from endangered to threatened. Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act set forth the procedures for reclassifying a species. The Service's listing regulations (50 CFR

part 424) provide for a review of the five following factors when reclassifying (or listing or delisting) a species. These factors and their application to the Louisiana pearlshell, *Margaritifera hembeli*, are as follows:

A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

At the time of listing, the Louisiana pearlshell was thought to be restricted to 11 streams in the Bayou Boeuf drainage of Rapides Parish, Louisiana (Louisiana Natural Heritage Program 1985). The range in this system had been reduced and fragmented by impoundments. Beaver dams were inundating populations and had eliminated a population of approximately 1000 pearlshells in 1985. In addition, populations were being impacted by sedimentation from gravel pits on private lands and from erosion where clear cuts extended to the bank of streams. Clear cuts extending to the stream bank can increase runoff with resultant scouring of the stream bed that creates unstable habitat for mussels. Since the listing in 1988, the discovery of eight additional populations has substantially increased the known range of the species. The U.S. Forest Service has an active program to control beavers within the range of the Louisiana pearlshell and has a policy on Kisatche National Forest that provides for streamside zones of generally 100 feet along the banks of perennial and intermittent streams. The streamside zones are managed for water quality and wildlife. Timber harvesting in these zones is limited to selective cutting by removing trees or groups of trees for the purpose of wildlife habitat improvement. During timber harvest, additional measures are used to minimize sedimentation of perennial streams. While the populations of this species are still fragmented and isolated by impoundments and are still being impacted by sedimentation from private lands, the number of known populations is greater and threats to populations on Kisatche National Forest have been reduced. There is evidence of successful reproduction in most, if not all, populations.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Collecting poses a significant threat to this species. This mussel occurs in very shallow, clear streams and generally has about one inch of the shell protruding from the substrate. An entire population may occur within a relatively short stretch of a stream. The restricted

distribution within a stream and the ease of observing individual mussels makes collection of the species very easy. A single overzealous recreational or scientific collector could drastically reduce the population of any given stream in a few hours. The collecting impacts could easily reduce the population below levels necessary for reproduction. The threat of collecting remains unchanged since the listing.

C. Disease or Predation

There is no evidence of threats from disease. The shallow stream habitat of this species makes it very vulnerable to predation by raccoons and muskrats. However, there has not been a consistent pattern of predation on this mussel.

D. The Inadequacy of Existing Regulatory Mechanisms

This species is protected under sections 7 and 9 of the Endangered Species Act, and it is also protected by the Louisiana Department of Wildlife and Fisheries as an endangered species. The Service does not believe that reclassification to threatened status will result in substantive change in the protection afforded this species under these regulatory mechanisms.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

The discovery of the Louisiana pearlshell in eight streams of a different river drainage from the historically known populations, greatly benefitted the recovery prospects for this species. This increase in number of populations and number of individual mussels significantly reduces the threat of natural or manmade factors affecting the continued existence of this species. The fish host for the mussel's larvae remains unknown, so impacts to this component of the reproductive cycle cannot be evaluated. Many of the streams where this species occurs are still isolated from each other and this may restrict gene flow; however, the populations are apparently reproducing and self-sustaining. Isolated gene pools are vulnerable to loss of genetic variability resulting in greater susceptibility of the population to catastrophic events, whether natural or man-made.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to make this rule final. Based on this evaluation, the preferred action is to reclassify this species from endangered status to threatened status. Threatened status is more appropriate because the species is

now known from 19 streams in two major drainages, with most, if not all, populations reproducing. While a population in one stream is still susceptible to a single catastrophic event, the entire population of the species is much less likely to be affected to the extent that species is in danger of extinction throughout all or a significant portion of its range. The recovery plan for this species will be revised to include an objective for delisting.

Available Conservation Measures

This rule changes the status of the Louisiana pearlshell from endangered to threatened. This rule acknowledges that the populations of the Louisiana pearlshell are relatively secure and are no longer in danger of extinction. This change in classification does not significantly alter the protection of this species under the Endangered Species Act. Anyone taking, attempting to take, or otherwise possessing a Louisiana pearlshell in an illegal manner would be subject to penalty under the Endangered Species Act. There are no differences in penalties for the illegal take of an endangered species versus a threatened species. Section 7 of the Act will also continue to protect this species from Federal actions that would jeopardize the continued existence of the species.

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be

prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the Federal Register on October 25, 1983 (48 FR 49244).

References Cited

- Athearn, H.D. 1970. Discussion of Dr. Heard's paper (Eastern freshwater mollusks, the south Atlantic and Gulf drainages): Pages 28-31; in A.H. Clarke (ed.), Papers on the rare and endangered mollusks of North America. Malacologia 20(1):1-56.
- Conrad, T.A. 1838. Monography of the family Unionidae, or naiades of Lamarck (Freshwater bivalve shells) of North America 1:93-94; plate 51.
- Hall, A.L., II. 1992. Field survey of *Margaritifera hembeli* 1992. Unpublished report to U.S. Fish and Wildlife Service, Jackson, MS. 4 pp.
- Johnson, R.E. 1983. *Margaritifera marrianae*, a new species of Unionacea (Bivalve: Margaritiferidae) from Mobile-Alabama-Coosa and Escambia River systems, Alabama. Occasional Papers on Mollusks (Museum of Comparative Zoology, Harvard University) 4(62):299-304.
- Lee, I. 1870. A synopsis of the family Unionidae: 4th edition. H.C. Lea, Philadelphia. 184 pp.
- Louisiana Natural Heritage Program. 1985. Status of *Margaritifera hembeli* (Unionacea: Margaritiferidae) in Kisatchie National Forest, Evangeline Ranger District, Rapides Parish, Louisiana, November 1985. An unpublished report to the U.S. Forest Service, 20 pp.
- Simpson, C.T. 1900. Synopsis of the naiades or pearly fresh-water mussels. Proc. U.S. Natl. Mus. 22-679.

Author

The author of this rule is James H. Stewart (see ADDRESSES section).

List of Subjects in 50 CFR Part 17

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

Regulation Promulgation

Accordingly, part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, is amended as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361-1407; 16 U.S.C. 1531-1544; 16 U.S.C. 4201-4245; Pub. L. 99-625, 100 Stat. 3500; unless otherwise noted.

2. Amend § 17.11(h) the list of Endangered and Threatened Wildlife, under "CLAMS", by revising the entry for "Pearlshell, Louisiana" to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
CLAMS							
Pearlshell, Louisiana	<i>Margaritifera hembeli</i>	U.S.A. (LA)	NA	T	304,518	NA	NA

Dated: September 1, 1993.

Richard N. Smith,

Acting Director, Fish and Wildlife Service.

[FR Doc. 93-23258 Filed 9-23-93; 8:45 am]

BILLING CODE 4310-55-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 625

[Docket No. 930640-3222; I.D. #052093C]

Summer Flounder 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 the conservation and management measures prescribed in Amendment 4 to the Fishery Management Plan for the Summer Flounder Fishery (FMP). This rule revises the percentage of the commercial quota allocated to each state, and revises the manner in which 1994 state quotas

will be adjusted for quota overages that may occur in 1993. The intent of Amendment 4 and this rule is to adjust for the underreporting in Connecticut catch data used to establish allocation shares and to make additional quota available to commercial vessels landing summer flounder in Connecticut.

EFFECTIVE DATE: October 25, 1993.

ADDRESSES: Copies of Amendment 4, the environmental assessment (EA), and the regulatory impact review (RIR)/initial regulatory flexibility analysis (IRFA) are available from John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115 Federal Building, 300 S. New Street, Dover, DE 19901-6790.

FOR FURTHER INFORMATION CONTACT: Hannah Goodale, Resource Policy Analyst, 508-281-9101.

SUPPLEMENTARY INFORMATION: The summer flounder fishery is managed under the FMP, which was developed jointly by the Atlantic States Marine Fisheries Commission (ASMFC) and the Mid-Atlantic Fishery Management

Council (Council) in consultation with the New England and South Atlantic Fishery Management Councils. The management unit for the FMP is summer flounder (*Paralichthys dentatus*) in U.S. waters of the western Atlantic Ocean from the southern border of North Carolina northward to the Canadian border.

Amendment 4 was prepared by the Council in consultation with the ASMFC and the New England and South Atlantic Fishery Management Councils. A notice of availability for Amendment 4 was published in the Federal Register on May 26, 1993 (58 FR 30140). The Council and ASMFC also requested that the Secretary of Commerce implement by emergency authority, the quota revisions proposed in Amendment 4 (58 FR 33243, June 16, 1993). An emergency interim rule was implemented effective from May 4, 1993, through August 5, 1993 (57 FR 27214, May 7, 1993), and extended through November 3, 1993 (58 FR 39680, July 26, 1993).

Amendment 4 uses a proxy for underreported landings in the State of Connecticut to revise the percentages of commercial quota allocated to the states under § 625.20(d)(1) of the regulations (see Table 1). This makes additional quota available to commercial vessels landing in the State. The revision to state quota percentages in Table 1 will result in a reduction in 1992 quota for ten states totaling 161,029 pounds (73,042 kg). Individual state reductions are shown in Table 2. The quota for Connecticut was increased by the same amount. Specifically, the revision increases Connecticut's quota share by 1.30388 percent. The remaining states will share a corresponding decrease, with the decreases ranging from 0.00004 percent to 0.36967 percent. The total coastwide quota for the management unit, which is set annually based on a target fishing mortality rate and stock abundance of various year classes, will not be affected by this action. This action merely redistributes the available quota.

TABLE 1.—REVISED STATE QUOTA SHARES

State	Revised	Original (percent)	Difference
Maine	0.04756	0.0482	-0.00064
New Hampshire	0.00046	0.0005	-0.00004
Massachusetts	6.82046	6.9111	-0.09064
Rhode Island	15.68298	15.8914	-0.20842
Connecticut	2.25708	0.9532	+1.30388
New York	7.64699	7.7486	-0.10161
New Jersey	16.72499	16.9473	-0.22231
Delaware	0.01779	0.0180	-0.00021
Maryland	2.03910	2.0662	-0.0271
Virginia	21.31676	21.6001	-0.28334
North Carolina	27.44584	27.8155	-0.36967
Total	100.00000		

Quota Overage Adjustment for 1994

This amendment also modifies the regulations regarding 1994 quota adjustments if any state's landings exceed its 1993 allocation and there is an overall balance of 1993 quota remaining. The current regulations at § 625.20(d)(2) require quota overages in any state to be deducted from that state's annual quota for the following year.

If there is unused 1993 quota at the end of the fishing year, the Amendment applies the unused quota to any quota overages for the ten states that experienced a quota reduction in 1993. The unused quota will be applied in proportion to the amount each state contributed toward increasing the Connecticut quota, before any deduction is made from any 1994 state quotas. The

maximum adjustment per state would not exceed the amount of quota reduction experienced in 1993, which is shown in Table 2.

The amendment also requires the unused 1993 quota to be allocated proportionally among the states that exceed their quota if the unused quota is inadequate to compensate the ten states for all overages. To calculate a given state's proportional share, the figures from Table 2 for each state with an overage will be summed. The individual state percentage share of that total will be calculated. For each state with an overage, that percentage will be applied to the total amount of unused 1993 quota, and the resulting amount will be deducted from the state's 1993 overage. This procedure will be repeated until all unused 1993 quota is applied to compensate states for the

reductions experienced in 1993. Again, the maximum adjustment per state would not exceed the amount of quota reduction experienced in 1993. The remaining overage for each state, if any, will be deducted from the 1994 state quota. This provision is only applicable to state quota overages occurring in 1993. In future years, quota overages in any state would be deducted from that state's annual quota for the following year.

TABLE 2.—REDUCTIONS IN 1993 STATE QUOTAS RESULTING FROM REVISED STATE QUOTA SHARES

State	Pounds	Kilograms
Maine	82	37
New Hampshire	5	2
Massachusetts	11,194	5,078

TABLE 2.—REDUCTIONS IN 1993 STATE QUOTAS RESULTING FROM REVISED STATE QUOTA SHARES—Continued

State	Pounds	Kilograms
Rhode Island	25,737	11,674
New York	12,547	5,691
New Jersey	27,453	12,453
Delaware	26	12
Maryland	3,347	1,518
Virginia	34,989	15,871
North Carolina	45,649	20,706
Totals	161,029	73,042

Changes From the Proposed Rule to the Final Rule

In the final rule, the wording of § 625.20(d)(3) is revised to improve the explanation of the manner in which unused 1993 quota would be applied to quota overages that occur in states which experienced a quota reduction in 1993 as a result of this amendment. The only change contained in this revision is the addition of text to explain the process to be followed if quota remains after a state has received the maximum adjustment allowed.

A correction is made to § 625.25 to insert language omitted from the final regulations for Amendment 3 (58 FR 40072, July 27, 1993). Amendment 3 altered the catch threshold at which the minimum mesh size requirement is effective. Section 625.25 should have been revised to reflect the increase in the threshold from 100 to 200 pounds (45.4 to 90.7 kg). This rule corrects the omission by revising the first sentence of § 625.25 to read as follows: Neither owners nor operators of otter trawlers issued a permit under § 625.4 and fishing with, or possessing on board, nets or pieces of net that do not meet the minimum mesh-size requirements (except pieces of netting no larger than 3 feet square (0.9 m square) that may be necessary to repair smaller mesh sections of the net forward of the terminal portion of the net to which the minimum mesh-size requirement applies) may possess 100 pounds (45.4 kg) or more of summer flounder May 1 through October 31 or 200 pounds (90.8 kg) or more of summer flounder November 1 through April 30.

Comments and Responses

One comment in support of Amendment 4 as outlined in the proposed rule and one comment requesting a different allocation amount for the State of Connecticut were received during the 45-day public comment period.

Comment: One commenter stated that Amendment 4 serves to correct an inequity in the original quota share allocation for Connecticut which was based on historical landings that were significantly underreported. The amendment represents the consensus of the ASMFC and the Council, it corrects an inequity, and truly shows how the ASMFC and Council processes can be responsive to the needs of member states.

Response: NMFS agrees with the commenter that the Council and ASMFC devised a rational approach to correct the underreported landings recorded for fishermen historically landing fish in Connecticut.

Comment: One commenter alleged that the 1987–1991 landings figures did not include hundreds of thousands of pounds of “across-the-dock fish” (landings primarily from out-of-state boats). The commenter asserted that inaccurate 1987-to-1991 figures listed in Table 2 of Amendment 4 were used to calculate adjusted landing figures for Connecticut for the years 1980–1986, which were then used to compute Connecticut’s quota share shown in Table 1. The proposed allocation of the quota, therefore, rests on flawed data and unfairly discriminates against Connecticut fishermen and dealers in violation of national standards 2 and 4 of the Magnuson Act.

Response: NMFS recognizes that not all landings in all states were used in the calculation of an individual state’s historical share of the overall quota, only those documented and recorded by the NMFS Northeast statistical data collection system. Landings from out-of-state vessels, if intercepted by the NMFS statistical agents, would have been properly attributed to the state where the vessel landed. However, the Council and ASMFC recognized that anomalies in the landings database probably exist for all states but they also recognized that such anomalies are unbiased and, therefore, the NMFS landings database was the appropriate data to use to determine the relative quota share. NMFS believes that the method employed to derive the increase in Connecticut’s quota and concomitant decrease in the quotas of the others states was the best available information and does not discriminate against any state(s).

Classification

The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), determined that Amendment 4 is necessary for the conservation and management of the Summer Flounder Fishery.

The Assistant Administrator has determined that this rule is not a “major rule” requiring a regulatory impact analysis under Executive Order 12291. The rule is not expected to have an annual impact of \$100 million or more, or to lead to an increase in costs or prices to consumers, individual industries, Federal, state, or local government agencies, or geographic regions. No significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets are anticipated. This determination is based on RIR/IRFA that demonstrates that the quota reduction required by this redistribution will not significantly impact fishermen in the affected states because the subtracted quota amounts are relatively small. The adjusted state quota shares will be less disruptive to traditional commercial landing patterns in the states than those in Amendment 2 because they will more closely reflect the actual historical state share of landings. A copy of the RIR/IRFA may be obtained from the Council (see ADDRESSES).

When this rule was proposed, the General Counsel of the Department of Commerce certified to the Small Business Administration that, if adopted as proposed, this rule would not have a significant economic impact on a substantial number of small entities because of the reasons set forth in the RIR/IRFA prepared by the Council, a copy of which may be obtained from the Council (see ADDRESSES). As a result, a regulatory flexibility analysis was not prepared.

List of Subjects in 50 CFR Part 625

Fisheries, Reporting and recordkeeping requirements.

Dated: September 20, 1993.

Samuel W. McKeen,

Program Coordinator, National Marine Fisheries Service.

For reasons set forth in the preamble, 50 CFR part 625 is amended as follows:

PART 625—SUMMER FLOUNDER FISHERY

1. The authority citation for part 625 continues to read as follows:

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

2. In § 625.20, paragraph (d)(1) is revised and paragraph (d)(3) is added to read as follows:

§ 625.20 Catch quotas and other restrictions.

* * * * *

(d)(1) The annual commercial quota will be distributed to the states based upon the following percentages:

State	Share (percent)
Maine	0.04756
New Hampshire	0.00046
Massachusetts	6.82046
Rhode Island	15.68298
Connecticut	2.25708
New York	7.64699
New Jersey	16.72499
Delaware	0.01779
Maryland	2.03910
Virginia	21.31676
North Carolina	27.44584

(3) Before any 1993 state quota overage is deducted from a respective 1994 state quota for Maine, New Hampshire, Massachusetts, Rhode Island, New York, New Jersey, Delaware, Maryland, Virginia, or North Carolina, the sum total of unused 1993 quota will be used to reduce individual state overages. If the sum total of unused 1993 quotas is inadequate to compensate for all state overages, excluding Connecticut, the unused 1993 quota will be allocated proportionally. The figures from the following table will be summed for each state having an overage. The individual state percentage shares of that total will be applied to the total amount of unused 1993 quota and the resulting amount will be deducted from each state's 1993 overage. However, the amount of the 1993 quota overage each state receives may not exceed its maximum adjustment shown in the table below. If an individual state reaches its maximum adjustment and there is still quota remaining, the percentages will be recalculated for the remaining states with overages and they will share the remaining unused quota proportionally based on the recalculated percentages. If, after several iterations of this process, the 1993 quota is fully exhausted, any remaining overages by an individual state will be deducted from the 1994 quota for that state.

State	Maximum adjustment	
	(lbs)	(kg)
Maine	82	37
New Hampshire	5	2
Massachusetts	11,194	5,078
Rhode Island	25,737	11,674
New York	12,547	5,691
New Jersey	27,453	12,453
Delaware	26	12
Maryland	3,347	1,518
Virginia	34,989	15,871
North Carolina	45,649	20,706

3. In § 625.25, paragraph (d) is revised to read as follows:

§ 625.25 Possession limit.

(d) Neither owners nor operators of other trawlers issued a permit under § 625.4 and fishing with, or possessing on board, nets or pieces of net that do not meet the minimum mesh-size requirements (except pieces of netting no larger than 3 feet square (0.9 m square) that may be necessary to repair smaller mesh sections of the net forward of the terminal portion of the net to which the minimum mesh-size requirement applies) may possess 100 pounds (45.4 kg) or more of summer flounder May 1 through October 31 or 200 pounds (90.8 kg) or more of summer flounder November 1 through April 30. Summer flounder on board these vessels shall be stored in a separate box that measures 36 inches (91.4 cm) long, 15 inches (38.1 cm) wide, and 12 inches (30.4 cm) high, for a volume of 3.75 cubic feet (0.1 cubic meters) and that is readily available for inspection.

[FR Doc. 93-23426 Filed 9-23-93; 8:45 am]
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50 CFR Part 651

[Docket No. 930830-3230; I.D. #073093C]

Northeast Multispecies Fishery

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

ACTION: Interim final rule; request for comments.

SUMMARY: NMFS issues this interim final rule to modify the regulations implementing the Fishery Management Plan for the Northeast Multispecies Fishery (FMP). This interim final rule further restricts the use of certain types of nets and clarifies the intent of the existing mesh requirements. These measures are necessary immediately to prevent the use of nets or netting that obstruct or constrict the meshes of the net to reduce significantly the regulated mesh size when in use. This reduced mesh size results in undersized fish being caught in an already overfished fishery.

DATES: September 24, 1993.

Comments: Written comments will be considered if received on or before October 25, 1993.

ADDRESSES: Copies of the Regulatory Impact Review (RIR) and Environmental Impact Statement (EIS) for the FMP may

be obtained from Douglas Marshall, Executive Director, New England Fishery Management Council, Suntaug Office Park, 5 Broadway, Saugus, MA 01906.

FOR FURTHER INFORMATION CONTACT: Jack Terrill (Fishery Policy Analyst, Northeast Region, NMFS), 508-281-9252 or Martin Jaffe (Fishery Management Specialist, Northeast Region, NMFS), 508-281-9272.

SUPPLEMENTARY INFORMATION: The FMP, developed by the New England Fishery Management Council (Council), was implemented in 1986. It established a system of management based upon the use of a minimum mesh size in specified areas, minimum fish sizes, and closed areas. Small-mesh (less than the regulated mesh size) fishing was permitted under area, season, and bycatch restrictions.

The regulations at 50 CFR 651.20(e)(2) were recently changed to specify that no additional nets or net strengtheners are allowed on the top of the regulated portion of a trawl net. Originally, a strengthener was allowed on a regulated net. The intent of the regulation was to allow the legitimate use of a portion of net over the regulated net in order to add strength to the net when full, without impeding escapement of fish through the regulated mesh. This requirement was modified by a final rule (57 FR 48473, October 26, 1992) that prohibited the use of a net strengthener, but allowed a splitting strap and/or bull rope (if present). The purpose of this prohibition was to halt a developing practice whereby fishermen employed a net strengthener that constricted the full opening of the net, resulting in a smaller effective mesh size despite the use of legal-size mesh. At that time, general language prohibiting any means or device that obstructs the meshes was removed because it did not appear to be necessary once net strengtheners were prohibited altogether.

Recent reports from the Massachusetts Division of Marine Fisheries and from fishermen indicate that a new type of net is being sold that technically meets minimum mesh-size requirements when measured while the net is not in use, but constricts when the net is in use to an effective mesh size smaller than the minimum mesh size allowed. This netting is designed to be employed in the top half of the codend of the net. The meshes of the net apparently constrict due to employment of a design by which the bars of the net entering and existing the knots of the net are twisted around each other during construction of the netting. The

resulting twisted mesh codend, which usually has double twine twisted bars, acts in a way that narrows the mesh size such that the escapement of smaller than minimum size fish is reduced significantly. Anecdotal reports from fishermen indicate that 30 vessels may currently be using this type of net and more are expected to try it.

This issue was brought before the Council at its April meeting. A codend made from the netting was displayed and a videotape of its construction and behavior under tow was shown. Public comments were received and discussed by the Council. The public and the Council condemned its use because it appeared to reduce the escapement of smaller than minimum-size fish, thereby circumventing the original intent of the Council in adopting minimum net mesh-size regulations. In order to eliminate this practice, the Council requested that the Regional Director take the quickest action possible to eliminate its use. In fact, the Commonwealth of Massachusetts, in response to this problem, has promulgated its own emergency regulation banning the use of twisted mesh codends. Based on anecdotal reports, public comments, and the Council's recommendation, NMFS has concluded that disallowing this type of net will result in lower discards and decreased mortality of undersized fish.

Further restrictions on net construction in § 651.20(b) and (e)(2) are needed immediately to prevent the use of this type of net and any other type of netting, net construction, net configuration, or means that result in the obstruction or constriction of the meshes on or in the top of the regulated portion of the net. The major species of the groundfish fishery have been determined by the Council to be overfished. Increased fishing mortality on these historically important stocks will make the task of rebuilding much more difficult. Continued use of the netting would thwart the intent and purpose of minimum mesh-size requirements, resulting in increased discards and mortality of groundfish inconsistent with the goals of the FMP.

Classification

The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), finds there is good cause, under 5 U.S.C. 553(b), to waive further comment prior to implementation. It would be impracticable and contrary to the public interest to delay for 30 days the effective date of the final rule because the interim final rule has received substantial prior public comment and public discussion

at the New England Fishery Management Council.

The Assistant Administrator has determined that this interim final rule is necessary immediately for the conservation and management of the Northeast multispecies fishery.

The Assistant Administrator has determined that the interim final rule is not a "major rule" requiring a regulatory impact analysis under E.O. 12291. This rule is not likely to result in an annual effect on the economy of \$100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, state or local government agencies, or geographic regions; or a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This interim final rule revises the language in the regulations implementing the FMP and does not alter the scope or intent of the FMP or the conclusions arrived at in the regulatory flexibility analysis for the FMP. Therefore, it is not subject to the Regulatory Flexibility Act requirement for a regulatory flexibility analysis, and none has been prepared.

This interim final rule does not contain a collection-of-information requirement for the purposes of the Paperwork Reduction Act.

This interim final rule is categorically excluded from the requirement to prepare an environmental assessment by NOAA Administrative Order 216-6. This determination was made on the basis that this rule does not change the impacts of the regulated mesh requirement originally assessed in the EIS prepared for the FMP.

List of Subjects in 50 CFR Part 651

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: September 20, 1993.

Samuel W. McKeen,
Program Coordinator, 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. Section 651.20 is amended by redesignating paragraph (e)(2) as paragraph (e)(2)(i), and by adding

paragraphs (b)(4) and (e)(2)(ii), to read as follows:

§ 651.20 Regulated mesh area and gear limitations.

* * * * *

(b) * * *

(4) No person may use a net in which the bars entering or exiting the knots twist around each other to engage in fishing.

* * * * *

(e) * * *

(2) * * *

(ii) A fishing vessel may not use any mesh configuration, mesh construction, or other means on or in the top of the regulated portion of the net, as defined in paragraph (e)(2)(i) of this section, if it obstructs the meshes of the net in any manner.

* * * * *

[FR Doc. 93-23427 Filed 9-23-93; 8:45 am]

BILLING CODE 3510-22-M

50 CFR Part 663

[Docket No. 930941-3241; I.D. 090393A]

Pacific Coast Groundfish Fishery

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

ACTION: Final rule.

SUMMARY: This rule extends the deadline for submitting applications for limited entry permits and gear endorsements from June 30, 1993, through October 15, 1993. It is necessary to compensate for a 3½-month delay in making permit applications available to the public, and is intended to provide applicants a full 6 months, from April 15, 1993, when applications were first made available, through October 15, 1993, to prepare and submit applications.

EFFECTIVE DATE: September 20, 1993.

FOR FURTHER INFORMATION CONTACT: William L. Robinson at 206-526-6140.

SUPPLEMENTARY INFORMATION: On November 16, 1992, NOAA published final regulations implementing Amendment 6 to the Fishery Management Plan for the Pacific Coast Groundfish Fishery (FMP) (57 FR 54001, November 16, 1992), codified at 50 CFR part 663, subpart C. Amendment 6 and its implementing regulations establish a license limitation limited entry program for the commercial groundfish fishery based on the issuance of gear-specific Federal permits. The program is administered by the Fisheries Management Division, Northwest Region, NMFS, Seattle, Washington.