

operations are subject to the following requirements on the low power transmitting devices:

(i) Power must not exceed one watt EIRP and 100 milliwatts transmitter output power;

(ii) A frequency tolerance of 0.001% must be maintained; and

(iii) The mean power of emissions shall be attenuated in accordance with the following schedule:

(A) In any 4 kHz band, the center frequency of which is removed from the center frequency of the assigned channel by more than 50 percent of the channel bandwidth and is within the bands 18,820–18,870 MHz or 19,160–19,210 MHz:

$$A = 35 + .003(F - 0.5B) \text{ dB}$$

or,

80 dB (whichever is the lesser attenuation).

Where

A = Attenuation (in decibels) below output power level contained within the channel for a given polarization.

B = Bandwidth of channel in kHz.

F = Absolute value of the difference between the center frequency of the 4 kHz band measured at the center frequency of the channel in kHz.

(B) In any 4 kHz band the center frequency of which is outside the bands 18.820–18.870 GHz: At least 43+10 log P (mean output power in watts) decibels.

(iv) Low power stations authorized in the band 18.8–19.3 GHz after June 8, 2000, are restricted to indoor use only.

* * * * *

3. Section 101.603 is amended by revising paragraphs (a)(2) and (b)(3) to read as follows:

§ 101.603 *Permissible communications.*

(a) * * *

(2) In the frequency bands 6425–6525 MHz, 17,800–18,580 MHz, and on frequencies above 21,200 MHz, licensees may deliver any of their own products and services to any receiving location;

* * * * *

(b) * * *

(3) Be used to provide the final RF link in the chain of transmission of program material to cable television systems, multipoint distribution systems or master antenna TV systems, except in the frequency bands 6425–6525 MHz and 17,800–18,580 MHz and on frequencies above 21,200 MHz.

[FR Doc. 04–15237 Filed 7–6–04; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[I.D.062804C]

Fisheries of the Northeastern United States; Atlantic Sea Scallop Fishery; Petition for Rulemaking; Request for Comments

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

ACTION: Notice of receipt of a petition for rulemaking; request for comments.

SUMMARY: NMFS announces receipt of a petition for rulemaking from the Fisheries Survival Fund (FSF) and the Garden State Seafood Association (GSSA) (Petitioners), both of which represent participants in the commercial fishing industry. The Petitioners request that NMFS develop and implement an emergency rule pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) to require specific modifications to the fishing gear used by Atlantic sea scallop vessels fishing south of Long Island and north of Cape Hatteras, from May 1 through October 15. The gear measures requested are the installation of a chain mesh configuration (“turtle chains”) in dredge gear and the installation of turtle excluder devices (TEDs) in trawl gear. These measures would be required for any Atlantic sea scallop vessel, whether fishing under a Limited Access or General Category permit, to protect sea turtles from incidental capture.

DATES: Comments will be accepted through August 6, 2004.

ADDRESSES: You may submit comments by any of the following methods:

- Federal e-Rulemaking Portal <http://www.regulations.gov>. Follow the instructions for submitting comments.

- Email: SCAPetition@noaa.gov. Include in the subject line of the e-mail comment the following identifier: Scallop Gear Petition

- Mail: Patricia A. Kurkul, Regional Administrator, Northeast Regional Office, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930–2298

- Fax: 978–281–9135

Copies of this petition may be obtained by contacting the NMFS Northeast Regional Office at the above address.

FOR FURTHER INFORMATION CONTACT: Peter Christopher, Fishery Policy

Analyst, 978–281–9288; fax 978–281–9135.

SUPPLEMENTARY INFORMATION: On June 17, 2004, the Petitioners submitted a petition for rulemaking requesting that NMFS promulgate an emergency rule pursuant to section 305(c) of the Magnuson-Stevens Act. The Petitioners assert that sea turtle captures in the scallop fishery, “represent a recently-emerging and relatively modest phenomenon.” Petitioners state that, after incidental sea turtle captures were documented in 2001, the FSF began working with Dr. William DuPaul of the Virginia Institute of Marine Sciences (VIMS) and Captain Ronald Smolowitz, a gear researcher, to design and test a chain configuration for the front of the scallop dredge to reduce or eliminate the catch of sea turtles in scallop dredges. The petition describes the 2 years of field trials during which the experimental dredge recorded no takes of sea turtles, while the control dredge recorded nine takes. The petition references an interim report authored by W. DuPaul, D. Rudders, and R. Smolowitz, “Interim Report: Industry Trials of a Modified Sea Scallop Dredge to Minimize the Catch of Sea Turtles,” VIMS Marine Research Report No. 2004–08 (May 2004).

The Petitioners note that the VIMS Sea Grant Program and FSF have developed instruction cards for vessel captains, which set forth specifications for use of the turtle chains. They also have developed and distributed instruction cards on how to handle the dredge to reduce interactions with sea turtles not actually caught in the dredge and to minimize potential injury or mortality to any turtle brought to the surface.

The Petitioners request that NMFS initiate immediately emergency rulemaking to require use of the modified gears and encourage adherence to the specifications set forth on the instruction cards, on all vessels fishing for sea scallops south of Long Island and north of Cape Hatteras. The Petitioners request that scallop dredge vessels be required to use “turtle chains” and that scallop trawl vessels be required to install an effective TED to fish in the specified area from May 1 through October 15.

The Assistant Administrator for Fisheries, NOAA (AA) has determined that the petition contains enough information to enable NMFS to consider the substance of the petition. NMFS will consider public comments received in determining whether to proceed with the development of the regulations requested by the Petitioners. Upon

determining whether to initiate the requested rulemaking, the AA will publish in the **Federal Register** a notice of the agency's final disposition of the Petitioner's request.

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

Dated: June 30, 2004.

John Oliver,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

[FR Doc. 04-15396 Filed 7-6-04; 8:45 am]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 040618188-4188-01; I.D. 061404A]

RIN 0648-AS26

Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Amendment 16-3

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS issues this proposed rule to implement Amendment 16-3 to the Pacific Coast Groundfish Fishery Management Plan (FMP). Amendment 16-3 amends the FMP to include overfished species rebuilding plans for bocaccio, cowcod, widow rockfish, and yelloweye rockfish within the FMP and would add two rebuilding parameters, the target year for rebuilding and the harvest control rule, to the Code of Federal Regulations (CFR) for each overfished stock. Amendment 16-3 is intended to address the requirements of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) to protect and rebuild overfished species managed under a Federal FMP. Amendment 16-3 is also intended to partially respond to a Court order, in which NMFS was ordered to provide Pacific Coast groundfish rebuilding plans as FMPs, FMP amendments, or regulations, as required by the Magnuson-Stevens Act. NMFS also proposes to update the list of rockfish species defined in the CFR to match those listed in the FMP.

DATES: Comments must be submitted in writing by August 17, 2004. Copies of Amendment 16-3 and the Environmental Impact Statement/

Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EIS/RIR/IRFA) for the amendment are available from Donald McIsaac, Executive Director, Pacific Fishery Management Council, 7700 NE Ambassador Place, Portland, OR 97220.

ADDRESSES: You may submit comments on Amendment 16-3 or supporting documents, identified by [I.D. 061404A], by any of the following methods:

- E-mail: *Amendment16-3PR.nwr@noaa.gov*. Include the I.D. number in the subject line of the message.
- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.
- Mail: D. Robert Lohn, Administrator, Northwest Region, NMFS, 7600 Sand Point Way NE., Seattle, WA 98115-0070; or Rod McInnis, Acting Administrator, Southwest Region, NMFS, 501 West Ocean Blvd, Suite 4200, Long Beach, CA 90802-4213.
- Fax: 206-526-6736, Attn: Jamie Goen.

FOR FURTHER INFORMATION CONTACT: Jamie Goen (Northwest Region, NMFS), phone: 206-526-4646; fax: 206-526-6736 and; e-mail: *jamie.goen@noaa.gov*.

SUPPLEMENTARY INFORMATION:

Electronic Access

This **Federal Register** document is also accessible via the Internet at the Web site of the Office of the **Federal Register's** Web site at: *http://www.gpoaccess.gov/fr/index.html*.

Background

Amendment 16-3 revises the FMP to include overfished species rebuilding plans for bocaccio, cowcod, widow rockfish, and yelloweye rockfish and adds specific rebuilding parameters to the Code of Federal Regulations (CFR) at 50 CFR 660.370, for each overfished species. This rulemaking is necessary to implement the rebuilding plans specified by Amendment 16-3.

Amendment 16-3 addresses the requirements of the Magnuson-Stevens Act to protect and rebuild overfished species managed under a Federal FMP. Amendment 16-3 is also intended to partially respond to a Court order in *Natural Resources Defense Council, Inc. v. Evans*, 168 F. Supp. 2d 1149 (N.D. Cal. 2001), in which NOAA Fisheries was ordered to provide Pacific Coast groundfish rebuilding plans as FMPs, FMP amendments, or regulations, as required by the Magnuson-Stevens Act. A Notice of Availability for Amendment

16-3 was published on June 18, 2004 (69 FR 34116).

This proposed rule is based on recommendations of the Council, under the authority of the Pacific Coast Groundfish FMP and the Magnuson-Stevens Act. Background information and the Council's recommendations are summarized below. Further detail appears in the EIS/RIR/IRFA for Amendment 16-3.

In the fall of 2000, NMFS had approved the first three rebuilding plans for lingcod, bocaccio, and POP (September 5, 2000, 65 FR 53646). Subsequently, requirements for developing overfished species rebuilding plans were addressed in Amendment 12 to the FMP, which was submitted for public review (September 8, 2000, 65 FR 54475) and approved by NMFS on December 7, 2000.

During NMFS's review of Amendment 12, the Agency considered whether the three previously approved rebuilding plans met the requirements of Amendment 12 and concluded that the plans did not. As a result, NMFS instructed the Council to re-submit the rebuilding plans for lingcod, bocaccio, and Pacific ocean perch (POP). The final rule to implement Amendment 12 describes NMFS's revocation of the lingcod, bocaccio, and POP rebuilding plans (December 29, 2000, 65 FR 82947). At that time, NMFS determined that while the rebuilding plans specified adequately protective harvest limits for these three species, the rebuilding plans did not meet all of the rebuilding plan requirements described in Amendment 12, and are not adequately explained and analyzed. In the absence of final rebuilding plans approved by NMFS, the groundfish fishery has continued to operate under interim rebuilding measures for these species.

While NMFS and the Council were developing rebuilding plans that were consistent with the requirements of Amendment 12, NMFS notified the Council that canary rockfish and cowcod were overfished and that the Council must submit rebuilding plans for these species (January 4, 2000, 65 FR 221). On January 11, 2001 (66 FR 2338), NMFS notified the Council that darkblotched and widow rockfish were overfished and that Council must submit rebuilding plans for these species.

On August 20, 2001, a Federal magistrate ruled in *Natural Resources Defense Council, Inc. v. Evans* (N.D. Cal. 2001) that rebuilding plans under the FMP must be in the form of a plan amendment or proposed regulations as specified by the Magnuson-Stevens Act, 16 U.S.C. 1854 (e)(3). In accordance