

safe boarding without causing further damage/injury to the turtle, line clippers described in paragraph (c)(5)(i)(A) of this section must be used to clip the line and remove as much line as possible prior to releasing the turtle.

* * * * *

4. In § 635.71, paragraphs (a)(33) and (a)(34) are added to read as follows:

§ 635.71 Prohibitions.

* * * * *

(a) * * *

(33) Deploy or fish with any fishing gear from a vessel with pelagic longline gear on board without carrying a dipnet and line clipper as specified at § 635.21(c)(5)(i).

(34) Fail to disengage any hooked or entangled sea turtle with the least harm possible to the sea turtle as specified at § 635.21(c)(5)(ii).

* * * * *

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 991104295-0259-02; I.D. 100599D]

RIN 0648-AM74

Fisheries of the Northeastern United States; Dealer and Vessel Reporting Requirements

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

ACTION: Final rule.

SUMMARY: NMFS issues a final rule to amend the existing reporting regulations for dealers and owners whose vessels are federally permitted to operate in the summer flounder, scup, black sea bass, Atlantic sea scallop, Northeast (NE) multispecies, monkfish, Atlantic mackerel, squid, butterfly, surfclam, ocean quahog, spiny dogfish or Atlantic bluefish fisheries. Changes to the existing regulations are needed to improve the monitoring of commercial landings and to enhance the enforceability of the reporting regulations. The intent of this action is to improve the collection of fisheries-dependent data.

DATES: Effective November 13, 2000.

ADDRESSES: Copies of the Regulatory Impact Review supporting this action are available from Patricia A. Kurkul,

Regional Administrator, Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930. Comments regarding the collection-of-information requirements contained in this final rule should be sent to Patricia A. Kurkul and to the Office of Information and Regulatory Affairs, Attention: NOAA Desk Officer, Office of Management and Budget, Washington, D.C. 20503. Send comments regarding any ambiguity or unnecessary complexity arising from the language used in this rule to Patricia Kurkul.

FOR FURTHER INFORMATION CONTACT:

Sandra Arvilla, (978) 281-9255, Kelley McGrath, (978) 281-9307 or Gregory Power, (978) 281-9304.

SUPPLEMENTARY INFORMATION:

Background

In order to improve monitoring of commercial landings and to enhance enforceability of the reporting regulations, this final rule clarifies or modifies several of the existing reporting requirements for dealers and owners whose vessels are federally permitted in the summer flounder, scup, black sea bass, Atlantic sea scallop, NE multispecies, monkfish, Atlantic mackerel, squid, butterfly, surfclam, ocean quahog, spiny dogfish or Atlantic bluefish fisheries. Regulations implementing the fishery management plans (FMPs) for the summer flounder, scup, black sea bass, Atlantic sea scallop, NE multispecies, monkfish, Atlantic mackerel, squid, butterfly, surfclam, ocean quahog, spiny dogfish and Atlantic bluefish fisheries were prepared under the authority of the Magnuson-Stevens Fishery Conservation and Management Act and are found at 50 CFR part 648. A proposed rule to implement these changes was published on December 2, 1999 (64 FR 67551). NMFS reopened the comment period on the proposed rule to ensure that affected fishermen and dealers were aware of the proposed reporting changes and had an opportunity to provide comments (65 FR 7820, February 16, 2000).

Trip Identifier

One of the data elements that dealers are required to provide on the weekly reports is a trip identifier for each trip from which fish are purchased. This requirement is in the existing regulations. However, the term "trip identifier" has not been defined and, thus, has not been reported by industry. Supplying a trip identifier for each trip from which fish are purchased would aid in matching dealer data with the corresponding vessel data by using a

uniquely identifiable serial number from the vessel logbook, if applicable, or a combination of the date sailed, and, if the vessel sailed more than once on the same day, the sequential trip number within that date sailed. To enable dealers to provide the trip identifier to NMFS, vessel owners/operators would have to provide each dealer with the trip identifier information at the time of offloading.

Because dealer compliance would be dependent upon compliance by the vessel owner/operator, establishing responsibility for compliance would be difficult, making fair and equitable enforcement of the requirement equally difficult. Thus, a requirement to provide a trip identifier is not being imposed at this time. Due to the importance of establishing a link between the dealer and vessel data, NMFS intends to make reporting a trip identifier mandatory in the near future. NMFS will work with industry members to explore various options for transferring trip identifier information from vessels to dealers without overly burdening either party. NMFS encourages the industry to assist in the development of alternative methods for providing this information.

Dealer Reporting Changes

This final rule modifies two requirements affecting summer flounder, scup, black sea bass, Atlantic sea scallop, NE multispecies, monkfish, Atlantic mackerel, squid, butterfly, spiny dogfish or Atlantic bluefish dealers, and two requirements affecting surfclam or ocean quahog dealers.

To collect more comprehensive and accurate data on the processing segment of the industry, dealers who have been issued a summer flounder, scup, black sea bass, Atlantic sea scallop, NE multispecies, monkfish, Atlantic mackerel, squid, butterfly, spiny dogfish or an Atlantic bluefish permit must complete all sections of the Annual Processed Products Report.

Federally permitted dealers must retain copies of reports, and records upon which the reports were based, for a total of 3 years after the date of the last entry on the report. This time frame is in keeping with standard business practices and will allow for validating the compliance of past landings reported by dealers and vessels.

To ensure that quotas in the surfclam and ocean quahog fisheries are not exceeded, harvest levels must be monitored on a timely basis. While dealers have historically provided these data on a weekly basis, this action specifies that reports must be postmarked or received within 3 days of the end of the reporting week.

Vessel Reporting Changes

This final rule modifies three requirements affecting vessels that have been issued a summer flounder, scup, black sea bass, Atlantic sea scallop, NE multispecies, monkfish, Atlantic mackerel, squid and butterfish, spiny dogfish or Atlantic bluefish permit. This final rule also modifies two requirements affecting vessels federally permitted in the surfclam or ocean quahog fisheries.

Regulations requiring vessel owners/operators to submit fishing log reports are clarified to indicate that a vessel logbook report needs to be submitted only for each trip taken, rather than for each day within a trip. The current regulations state that vessel owner/operators must submit an "accurate daily fishing log report" for all trips. To clarify that a report must be submitted only for each fishing trip, the word "daily" is removed from the existing regulations.

Vessel owners/operators are required to report the pounds, by species, of all fish landed or discarded. This final rule clarifies that "hail weight" should be reported rather than exact weight. Because many vessel owners/operators interpret the pounds landed to be the exact pounds sold to the dealer, many vessel operators copy the catch information from the dealer receipts after the catch has been sold. "Hail weight" is defined to mean a good-faith estimate, in pounds for commercial vessels and in numbers of individual fish for party and charter vessels, by species, or parts of species, such as monkfish livers, of all fish landed or discarded for each trip.

To clarify, for enforcement purposes, which logbook information must be completed prior to the vessel entering port with fish, this final rule specifies that all information, other than that which is not able to be ascertained (i.e., dealer name, dealer permit number, and date sold) must be completed prior to entering port with fish.

Vessel log reports and any records upon which the reports were based must be kept on board the vessel for at least 1 year and retained for a total of 3 years after the date of the last entry on the report. This time frame is in keeping with standard business practices and will allow for validation of compliance of past landings reported by dealers and vessels.

To better monitor harvest levels of surfclams and ocean quahogs, surfclam and ocean quahog vessel log reports must be postmarked or received within 3 days of the end of the reporting week. While vessel owners have historically

provided these data on a weekly basis, this action clarifies that reports must be submitted within the specified time frame.

Comments and Responses

NMFS received three written comments during the initial comment period from December 2, 1999, through January 3, 2000, and 12 additional comments during the reopening of the comment period, which ran from February 16, 2000, through March 2, 2000. Only comments received during the comment periods were considered for response. Seven comments were received after one or both comment periods were closed. Those comments were not considered. However, all but one of those comments were contained in comments received during the comment period.

Comment 1: Eight commenters cited increased costs and compliance issues as the two primary reasons for opposition to the trip identifier requirement. One concern was the requirement for fishermen to supply dealers with a trip identifier at the time of offloading. This would be difficult in cases where product is being shipped, sold on consignment, or sold to multiple dealers, as the owner/operator would not be in contact with the dealer. The commenters felt that the burden imposed on dealers would be significant, causing a halt to production in the crucial period of offloading to fill out logbooks. Several commenters were also concerned about potential violations and who would be held responsible if the trip identifier is not reported. Since dealer compliance would be dependent upon compliance by the vessel owner/operator, establishing responsibility for compliance would be difficult.

Three commenters supported the rule to provide a trip identifier, expressing that it would not be unreasonable or cumbersome for dealers to provide the information. One commenter felt that this change would help improve the accuracy of landings data and it would also make it easier to determine the location of catches.

Response: While the requirement for federally permitted dealers to provide a trip identifier is in the existing regulations, trip identifier has not been defined, and, thus, has not been reported by industry. Supplying a trip identifier for each trip from which fish are purchased would aid in matching dealer data with the corresponding vessel data by using a uniquely identifiable serial number from the vessel logbook, if applicable, or a combination of the date sailed, and, if

the vessel sailed more than once on the same day, the sequential trip number within that date sailed. NMFS believes that having a unique trip identifier to link dealer and vessel data is critical to provide accurate data for fishery scientists, managers and analysts to quantify harvest rates, set quotas, predict closures, and assess stocks. Because of its importance, reporting a trip identifier will be mandatory in the near future.

Comment 2: Five commenters opposed the requirement to complete trip reports prior to entering port with fish because of a variety of physical conditions at sea that sometimes make it impossible to complete a vessel trip report. Also, loss of revenue may result from having to complete trip reports rather than actually fishing while at sea. One commenter expressed that although the Agency requires "hail weight," a captain may not have the ability to estimate weights accurately and that actual weights would allow assessments, analyses and management decisions to be based on more accurate data. One commenter also perceived the requirement as an excuse to revoke licenses for non-compliance. Another commenter expressed concern that completing trip reports at sea does not promote legibility and/or accuracy.

Response: Although NMFS understands the industry's concerns, the Agency's objective is to collect the most accurate data. To ensure that NMFS is receiving the most accurate data, the information should be recorded at the time of the vessel's trip. The information submitted on the vessel trip reports, such as the vessel's gear type and statistical area fished, is used to augment the dealer data, which provide exact weight and value. These data are used by fishery scientists, managers, and analysts to quantify harvest rates, set quotas, predict closures, and assess stock status. This modification would enhance the enforceability of the reporting requirements.

Therefore, NMFS is requiring that all information in the logbooks, other than that which is not able to be ascertained, be completed prior to entering port with fish. To complete the log books within this time frame, this action clarifies that vessel owners/operators must report hail weight, defined as a good faith estimate, by species, or parts of species, such as monkfish livers, of all fish landed or discarded.

Comment 3: Two commenters were concerned with NMFS over-burdening the industry with reporting requirements. Another concern was that additional data-collection measures will impose increased costs of compliance

(without improvements in data collection); present unnecessary complexity due to differences between primary versus secondary product sales at auction; and introduce administrative burdens, increasing both risk and liability to dealers.

Response: The intention of the proposed changes is to improve the collection of fisheries-dependent data by modifying or clarifying several dealer and vessel reporting requirements. It will also improve the monitoring of commercial landings and enhance the enforceability of the reporting regulations. The modifications and clarifications of the existing regulations being implemented by this rule do not add any new reporting requirements.

Comment 4: One commenter was concerned that requiring a vessel logbook report to be submitted for "each trip taken" rather than for "each day of the trip" would result in the loss of detailed catch and area information, and that the vessel logbook information would be diminished in value.

Response: This rule would not change the current regulations that require a separate logbook report to be completed for each statistical area fished, and each change in gear or mesh size within a trip. Existing regulations state that vessels must submit an "accurate daily fishing log report" for all trips. This has resulted in misinterpretation of when a logbook report must be completed and submitted. To clarify that reports must be submitted only for each fishing trip, the word "daily" would be removed from the existing regulations. Because a separate report will continue to be required for any change in gear type, mesh or statistical area, this change will not cause any pertinent data to be lost.

Comment 5: One commenter was concerned that an extra paperwork burden would be imposed on the Maine Mahogany Quahog dealers to report the ocean quahog landings to NMFS because Maine Mahogany Quahog dealers are also required to submit monthly reports to the state of Maine. The commenter expressed that detailed weekly reports are too burdensome to an industry with limited clerical staff.

Response: As part of the final rule implementing Amendment 10 for the Atlantic Surfclam and Ocean Quahog Fisheries (63 FR 27481, May 19, 1998) and joint management between NMFS and the state of Maine, NMFS is responsible for setting and monitoring Maine Mahogany quahog quotas. Maine dealers are currently required to submit weekly reports to NMFS. Although state-certified dealers submit monthly reports to the state of Maine, they need to submit weekly reports, within 3 days

of the end of the reporting week, to NMFS so that the Agency may effectively monitor quotas. NMFS is working with the state of Maine in an effort to eliminate duplicate reporting, where possible.

Comment 6: Two comments received stated that the additional record retention from 1 year to 3 years is not justified, and that 2 more years of additional storage is unreasonable.

Response: Increasing the record retention requirement for dealer and vessel reports from 1 year to a total of 3 years, after the date of the last entry on the report, is consistent with standard business practices and the Internal Revenue Service requirements. In keeping with current regulations, vessel owner/operators will continue to be required to retain logbooks on board the vessel for at least 1 year. It will allow for validating the compliance of past landings reported by dealers and vessel owners or operators. Requirement of records for storage for the total retention period would be minimal since many companies keep their records for at least 3 years for business purposes already. In addition, only 1 year need be stored on board. Thus, the actual amount of records required to be on board a vessel has not changed.

Comment 7: Two commenters who were opposed to the requirement for dealers to fill out an annual processing report on all processed seafood stated that most product is in some way processed, whether purchased from vessels, domestic dealers or foreign countries. One commenter felt that NMFS should currently have enough data with landing data, import data and employment data to assess economic factors in the processing industry. One commenter stated that completion time would exceed the estimated 30 minutes per annual report.

Response: The data on volume and value are used by NMFS and Regional Fishery Management Council economists to estimate processing capacity and to forecast and subsequently measure the economic impact of fishery management regulations on fish and shellfish supplies. The information collected through all sections of the Annual Processed Product survey is a necessary part of the economic and social analyses NMFS must perform when proposing and evaluating management actions affecting federally managed fisheries. Many of the species under Federal management are considered overfished and some stocks have reached critically low levels. In order to manage these fisheries effectively and balance the needs of the resource and the industry

members, NMFS must have a comprehensive database that accurately represents the fishing industry, including the processing segment of the industry. If decisions affecting the fisheries are based on inadequate or incomplete data, the long-term viability and economic yield from those fisheries, as well as the credibility of the fishery management process itself, are jeopardized.

Direct feedback from respondents provide the estimate for average response time. The 30 minutes per response was based on a statistical analysis of 1,260 respondents.

Comment 8: Two commenters felt that NMFS should place the same level of reporting requirements on the recreational sector, including party/charter vessels and head boats, as exist for the commercial vessels. They were concerned that statistical information on the recreational sector is lacking.

Response: Any recreational fishing vessel that fishes for federally managed species in the EEZ, under 50 CFR part 648, and takes passengers for hire, must have been issued a Federal permit. Federally-permitted vessels in the recreational fisheries are subject to the same reporting requirements as federally permitted commercial vessels. Under the Magnuson-Stevens Fishery Conservation and Management Act, recreational fishing vessels that do not fish in the EEZ are not required to be issued a Federal permit, and therefore are not subject to Federal reporting requirements. Similarly, recreational vessels that fish in the EEZ for their own recreation and do not take passengers for hire are also not required to obtain a Federal permit and are not required to report their catch. However, recreational vessels do provide catch and effort data to NMFS for inclusion in the Marine Recreational Fishery Statistics Survey.

Changes From the Proposed Rule

Because reporting a trip identifier is not being implemented at this time, changes were made to two sections of the proposed rule to clarify the measures and the intent of the regulations, and to respond to public comments. These changes are listed here in the order that they appear in the regulations:

Section 648.2 is revised to delete definitions for "Serial number" and "Trip identifier" to reflect that the "trip identifier" requirement is not being implemented at this time. The definition for "Hail weight" has been expanded to clarify that a party or charter vessel report in numbers of individual fish.

In § 648.7, paragraph (b)(1)(i) is modified to reflect the new language from the final rule implementing Amendment 1 to the FMP for the Atlantic Bluefish Fishery. The new language was incorporated into the Atlantic bluefish final rule to make it easier for the public to understand which vessel owner/operators are affected by the reporting requirements specified in this part. Also, in this paragraph the phrase "hail weight, in pounds (or count, if a party or charter vessel) by species, of all species landed or discarded" was expanded to read "hail weight, in pounds (or count of individual fish, if a party or charter vessel), by species, of all species, or parts of species, such as monkfish livers, landed or discarded."

The President has directed Federal agencies to use plain language in their communications with the public, including regulations. To comply with this directive, we seek public comment on any ambiguity or unnecessary complexity arising from the language used in this rule. Send comments to Patricia Kurkul (see **ADDRESSES**).

Classification

This final rule has been determined to be not significant for purposes of Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this final rule would not have a significant economic impact on a substantial number of small entities. The basis for this certification was contained in the classification section of the proposed rule and is not repeated here. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not prepared.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act (PRA) unless that collection of information displays a currently valid Office of Management and Budget (OMB) control number.

This rule contains collection-of-information requirements subject to review and approval by the OMB under the PRA, and clarifies or modifies requirements previously approved under OMB control number 0648-0229 (2 minutes per response for dealer purchase reports, 4 minutes for interactive voice response reports, and 30 minutes for shellfish processor reports); OMB control number 0648-0212 (5 minutes per response for vessel

logbook reports and 12 minutes for shellfish logs); and OMB control number 0648-0018 (30 minutes per response for processed products reports and 15 minutes for fish meal and oil production reports). The requirement to complete all sections of the Annual Processed Products Report was approved on March 4, 2000, under OMB control number 0648-0018. Public reporting burden for this collection of information is estimated to average 30 minutes per response.

The aforementioned response estimates include the time for 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 data collection, including suggestions for reducing the burden, to NMFS and OMB (see **ADDRESSES**).

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: October 6, 2000.

William T. Hogarth,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

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

2. Section 648.2 is revised by adding definition for "Hail Weight", to read as follows:

§ 648.2 Definitions.

* * * * *

Hail Weight means a good-faith estimate in pounds (or count of individual fish, if a party or charter vessel), by species, of all species, or parts of species, such as monkfish livers, landed or discarded for each trip.

* * * * *

3. In § 648.7 paragraphs (f)(1)(ii) and (f)(1)(iii) are redesignated as (f)(1)(iii) and (f)(1)(iv) respectively; new paragraph (f)(1)(ii) is added; paragraph (f)(2) is redesignated as paragraph (f)(2)(i) and the first sentence is revised; new paragraph (f)(2)(ii) is added; and paragraphs (a)(3)(i), (b)(1)(i), (c), (e), and (f)(1)(i) first sentence are revised to read as follows:

§ 648.7 Recordkeeping and reporting requirements.

(a) * * *

(3) * * *

(i) All dealers issued a dealer permit under this part, with the exception of those processing only surfclams or ocean quahogs, must complete all sections of the Annual Processed Products Report for all species of fish or shellfish that were processed during the previous year. Reports must be submitted to the address supplied by the Regional Administrator.

* * * * *

(b) * * *

(1) * * *

(i) The owner or operator of any vessel issued a valid permit under this part must maintain on board the vessel, and submit, an accurate fishing log report for each fishing trip, regardless of species fished for or taken, on forms supplied by or approved by the Regional Administrator. If authorized in writing by the Regional Administrator, a vessel owner or operator may submit reports electronically, for example by using a VMS or other media. With the exception of those vessel owners or operators fishing under a surfclam or ocean quahog permit, at least the following information and any other information required by the Regional Administrator, must be provided: vessel name; USCG documentation number (or state registration number, if undocumented); permit number; date/time sailed; date/time landed; trip type; number of crew; number of anglers (if a charter or party boat); gear fished; quantity and size of gear; mesh/ring size; chart area fished; average depth; latitude/longitude (or loran station and bearings); total hauls per area fished; average tow time duration; hail weight, in pounds (or count of individual fish, if a party or charter vessel), by species, of all species, or parts of species, such as monkfish livers, landed or discarded; dealer permit number; dealer name; date sold, port and state landed; and vessel operator's name, signature, and operator's permit number (if applicable).

* * * * *

(c) *When to fill out a log report.* Log reports required by paragraph (b)(1)(i) of this section must be filled out with all required information, except for information not yet ascertainable, prior to entering port with fish. Information that may be considered unascertainable prior to entering port with fish includes dealer name, dealer permit number, and date sold. Log reports must be completed as soon as the information becomes available. Log reports required by paragraph (b)(1)(ii) of this section

must be filled out before landing any surfclams or ocean quahogs.

* * * * *

(e) *Record retention.* Copies of dealer reports, and records upon which the reports were based, must be retained and be available for review for a total of 3 years after the date of the last entry on the report. Dealers must retain required reports and records at their principal place of business. Copies of fishing log reports must be kept on board the vessel for at least 1 year and available for

review and retained for a total of 3 years after the date of the last entry on the log.

(f) * * *

(1) * * *

(i) Detailed weekly trip reports, required by paragraph (a)(1)(i) of this section, must be postmarked or received within 16 days after the end of each reporting week. * * *

(ii) Surfclam and ocean quahog reports, required by paragraph (a)(1)(ii) of this section, must be postmarked or received within 3 days after the end of each reporting week.

* * * * *

(2) * * *

(i) Fishing vessel log reports, required by paragraph (b)(1)(i) of this section, must be postmarked or received within 15 days after the end of the reporting month. * * *

(ii) Surfclam and ocean quahog log reports, required by paragraph (b)(1)(ii) of this section, must be postmarked or received within 3 days after the end of each reporting week.

* * * * *

FR Doc. 00-26357 Filed 10-12-00; 8:45 am]

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