

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 651**

[Docket No. 950306066–5066–01; I.D. 111594A]

RIN 0648–AH46

Northeast Multispecies Fishery; Emergency Interim Rule Extension and Amendment to Allow Vessel Transiting

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

ACTION: Emergency interim rule; amendment and extension of effectiveness.

SUMMARY: An emergency interim rule, as amended, in effect through March 12, 1995, is extended from March 13, 1995, through June 10, 1995, because conditions warranting the emergency rule still exist. This rule also amends the emergency interim rule to allow vessels to transit closed areas, provided that there is a demonstrable safety reason and fishing gear is properly stowed. The intent of this extension and amendment is to provide interim protection to various multispecies finfish stocks, especially haddock, cod, and yellowtail flounder while a more comprehensive set of management measures is developed to protect and begin rebuilding abundance levels of these species.

EFFECTIVE DATE: These amendments are effective March 13, 1995, through June 10, 1995. The emergency interim regulations published at 59 FR 63926, December 12, 1994, and amended at 60 FR 3102, January 13, 1995, in effect through March 12, 1995, are extended from March 13, 1995, through June 10, 1995.

ADDRESSES: Copies of the Environmental Assessment (EA) supporting this action may be obtained from Jon C. Rittgers, Acting Regional Director, National Marine Fisheries Service, 1 Blackburn Drive, Gloucester, MA 01930.

FOR FURTHER INFORMATION CONTACT: Susan A. Murphy, Fishery Policy Analyst, Northeast Region, NMFS, 508–281–9252.

SUPPLEMENTARY INFORMATION: Under section 305(c) of the Magnuson Fishery Conservation and Management Act (Magnuson Act), NMFS promulgated an emergency interim rule (59 FR 63926, December 12, 1994) that implemented

protective measures for multispecies finfish for the period December 12, 1994, through March 12, 1995. The emergency interim rule implemented: (1) A simultaneous closure of redefined Closed Area I, the Nantucket Lightship Closed Area, and Closed Area II; (2) a prohibition on scallop vessels in the closed areas; (3) a disallowance of any fishery utilizing mesh smaller than the minimum mesh size allowed for regulated species, with the exception of fisheries that have been determined to have a catch of less than 5 percent by weight of regulated species; (4) a prohibition on the possession of regulated species while fishing with small mesh; (5) a requirement that all mobile gear vessels fishing in the Stellwagen Bank and Jeffreys Ledge areas, with the exception of mid-water trawl and purse seine vessels, use 6-inch (15.24-cm) square mesh codends; and (6) an increase in the minimum mesh size in the Southern New England and Nantucket Lightship Regulated Mesh Areas to 6-inch (15.24-cm) diamond or square mesh.

An amendment to the December 12, 1994, emergency interim rule (60 FR 3102, January 13, 1995) made several modifications and clarifications, beginning January 10, 1995. That amendment, among other things, added allowable bycatch species to the exempted fisheries as defined in the December 12 emergency interim rule, allowed a bycatch fishery for longhorn sculpin in the Northern Shrimp Exemption Area, and allowed transiting in Closed Area I and the Nantucket Lightship Closed Area for vessels seeking safe haven.

At the request of NMFS, the New England Fishery Management Council (Council) is preparing a Framework Adjustment (Framework Adjustment 9) to the Fishery Management Plan for the Northeast Multispecies Fishery (FMP) to implement these emergency measures on a permanent basis while a more comprehensive FMP amendment (Amendment 7) to address the long-term objective of stock rebuilding is developed. On February 15, 1995, the Council voted to recommend extension of the emergency interim rule, as amended, for an additional 90 days as provided for in the Magnuson Act. NMFS agrees with the recommendation, because conditions warranting the emergency rule still exist. Therefore, under provisions of section 305(c)(3)(B) of the Magnuson Act, NMFS extends the emergency interim rule, as amended, an additional 90 days, through June 10, 1995.

Since Amendment 6 to the FMP (59 FR 32134, June 22, 1994) extended the

timeframe for closure of Closed Area II through June of each year, extension of the Closed Area II provisions of the December 12 emergency rule has no impact on the fishery. However, the provisions in § 651.21(d)(2) are extended for simplicity and revised to reflect U.S. Coast Guard policy as discussed below.

In § 651.21, paragraphs (d)(1), (2), and (3) are amended to reflect current U.S. Coast Guard policy that allows a fishing vessel to transit closed areas, provided that the vessel operator has a compelling and demonstrable safety reason and provided that the vessel's fishing gear is properly stowed. Paragraph (d)(1)(iv) is added to § 651.21 as a stowage provision for hook gear vessels using gear other than pelagic hook gear.

Classification

The Assistant Administrator, NOAA, finds that good cause exists under 5 U.S.C. 553(b)(B) to waive the requirements to provide prior notice and opportunity for public comment for the amendments to the interim emergency rule made by this action because they are made to reflect current U.S. Coast Guard practices and providing opportunity for public comment would serve no useful purpose. The changes made by the amendment portion of this action were in response to public comments received by the Council at two of its recent meetings since the original emergency rule action first became effective. Further, because the amendment to the emergency rule contained in this action relieves a regulatory restriction under 5 U.S.C. 553(d)(1), it is not subject to a 30-day delay in effective date. This action has been determined to be not significant under E.O. 12866.

This rule is exempt from procedures of the Regulatory Flexibility Act to prepare a regulatory flexibility analysis because the rule is issued without opportunity for prior public comment. No analysis has been prepared.

List of Subjects in 50 CFR Part 651

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: March 7, 1995.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

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