

December 8, 1994. However, because the December 8, 1994, meeting was not announced as the second and final of the two required meetings, the Council recommended to the Director, Northeast Region, NMFS (Regional Director) publication of the measures contained in Framework Adjustment 4 as a proposed rule to ensure that the public has been afforded sufficient opportunity for notice and comment.

In accordance with the regulations, public comments on the framework adjustment were taken by the Council during its October 26, 1994 and December 8, 1994 meetings. One member of the industry from Virginia Beach, VA and an attorney representing 22 full-time scallop vessels from New Bedford, MA, commented at the December meeting. The comments were in support of the recommended adjustment. Written responses were received on this framework adjustment from two individuals. Those comments questioned the safety aspects of a reduction in the minimum crew size. The analysis included in the Council's framework package suggests that, based on available Coast Guard data for the scallop fishery, there is no relationship between the size of the crew and accidents aboard scallop vessels. Fishers have publicly stated that most New Bedford scallop boats carried less than seven crew members in the winter of 1993-94 simply because scallop stocks were low. Fishers also stated, and NMFS concurs, that there is nothing inherently dangerous about using a

seven-person crew and that safety ultimately depends upon onboard safety practices rather than crew size.

#### Classification

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

The Assistant General Counsel of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. This action, if adopted, is a 1-year reimposition of a restriction in crew limit size established by Framework #1 to the FMP, effective from August 17, 1994, through December 31, 1994. The proposed action would not have a significant economic impact on a substantial number of small entities for the following reasons: (1) It is unlikely to force vessels to cease or substantially modify operations; (2) many vessels already carried crew sizes of seven or less because of low stock abundance of sea scallops; and (3) short-term benefits of harvesting immature sea scallops in 1995 that have never produced young for future years would be greatly outweighed by longer-term benefits to small entities for the next several years. As a result, a regulatory flexibility analysis was not prepared.

#### List of Subjects in 50 CFR Part 650

Fisheries, Reporting and recordkeeping requirements.

Dated: February 8, 1995.

**Gary Matlock,**

*Program Management Officer, National Marine Fisheries Service.*

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

#### **PART 650—ATLANTIC SEA SCALLOP FISHERY**

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

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

2. Section 650.21 is proposed to be amended by revising paragraph (c) to read as follows:

#### **§ 650.21 Gear and crew restrictions.**

\* \* \* \* \*

(c) *Crew restrictions.* Limited-access vessels participating in or subject to the scallop DAS allocation program may have no more than seven people onboard when not docked or moored in port through February 29, 1996, and nine people onboard when not docked or moored in port thereafter, including the operator, unless participating in the small dredge program specified in paragraph (e) of this section, or otherwise authorized by the Regional Director.

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