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## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

43 CFR Parts 3720, 3730, 3800, 3810, 3820, 3830, and 3850

[WO-660-4191-02-24 1A; Circular No. 2657]

RIN 1004-AC17

**Mining Claims; Maintenance and Location Fees; Lands Open to Location, National Parks, King Range National Conservation Area, Indian Reservations, Surface Management; Removal of Obsolete or Expired Regulations, Consolidation of Remaining Sections; Final Rule; Correction**

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Correction to final rule.

**SUMMARY:** This document contains a correction to the final rule implementing provisions of the Omnibus Budget Reconciliation Act of 1993 that require a \$25 location fee and a \$100 annual maintenance fee for each mining claim and site located and held under the general mining laws. The rule was published Tuesday, August 30, 1994 (59 FR 44846).

**EFFECTIVE DATE:** August 30, 1994.

**FOR FURTHER INFORMATION CONTACT:** Frank Bruno (202) 452-0350 (not a toll-free call).

#### SUPPLEMENTARY INFORMATION:

##### Need For Correction

As published, the final rule contains an error which may prove to be misleading and, therefore, needs clarification.

##### Correction of Publication

Accordingly, the publication on August 30, 1994, of the final rule (WO-660-4191-02-24 1A; Circular No. 2657), which was the subject of FR Doc. 94-21388, is corrected as follows:

On page 44862, in the first column, in § 3833.1-7, paragraph (e)(1), line 12, the cross-referenced paragraph "3833.0-5(y)" is corrected to read "3833.0-5(x)".

Nancy K. Hayes,

Acting Assistant Secretary of the Interior.

[FR Doc. 94-23133 Filed 9-16-94; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

50 CFR Part 651

[Docket No. 940951-4251; FD. 081694B]

### Northeast Multispecies 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 Framework Adjustment 6 to the Northeast Multispecies Fishery Management Plan (FMP). The intent of this rule is to reduce the catch of juvenile silver hake in the Cultivator Shoal whiting (silver hake) fishery by increasing the minimum mesh size from 2½ inches (6.35 cm) to 3 inches (7.62 cm).

**EFFECTIVE DATE:** October 19, 1994.

**ADDRESSES:** Copies of Amendment 5 to the FMP, its regulatory impact review (RIR) and the initial regulatory flexibility analysis contained within the RIR, its final supplemental environmental impact statement, and Framework Adjustment 6 are available upon request from Douglas G. Marshall, Executive Director, New England Fishery Management Council, 5 Broadway, Saugus, MA 01906-1097.

**FOR FURTHER INFORMATION CONTACT:** Susan A. Murphy, NMFS, Fishery Policy Analyst, 508-281-9252.

#### SUPPLEMENTARY INFORMATION:

##### Background

Amendment 4 to the FMP, published May 31, 1991 (56 FR 24724), established the Cultivator Shoal whiting fishery, a specified area within the Gulf of Maine/ Georges Bank Regulated Mesh Area. For 3 years preceding Amendment 4, NMFS had conducted an experimental fishery program in the Cultivator Shoal area using NMFS sea samplers to collect data about the silver hake fishery and particularly about the regulated species bycatch. The data collected by sea samplers led to the conclusion that the Cultivator Shoal whiting fishery had minimal impact on regulated species.

Under the terms of Amendment 5 to the FMP (59 FR 9872, March 1, 1994), vessels may fish for silver hake in the Cultivator Shoal area from June 15 through October 31, unless otherwise specified, if the vessel: (1) Has onboard a letter of authorization issued by the Director, Northeast Region, NMFS (Regional Director); (2) has a minimum

mesh size of 2½ inches (6.35 cm) applied to the first 160 meshes counted from the terminus of the net; and (3) does not exceed the possession limit of regulated species as specified in 50 CFR 651.27(a).

Fishing industry members recently asked the New England Fishery Management Council (Council) to adopt more restrictive regulations to conserve the silver hake stocks and protect this resource from a potential increase in fishing effort directed at the juvenile component of the stocks. Their concerns are based on at least two recent developments in the industry that directly affect the silver hake fisheries, as well as on the assessment scientists' uncertainty about the stock status and the impact of those recent changes.

First, as restrictive management plans are implemented in other fisheries in the region, a significant amount of potential fishing effort is being displaced. Fishers anticipate that some portion of that displaced fishing effort will be directed on silver hake, since this fishery is relatively unregulated and the stocks are comparatively stable. The effect of a sudden increase in fishing effort on silver hake stocks and markets is uncertain, but potentially detrimental to both. The most recent advisory report from the Stock Assessment Workshop (SAW) in February 1994, which was SAW #17, states that, although there are uncertainties regarding the exploitation pattern in the silver hake fishery, it is recommended that any increase in effort on these stocks be avoided.

Second, in the past year, an export market for juvenile silver hake has emerged. The potential demand from this new market and its impact on the stocks are unknown. Assessment scientists, while acknowledging that natural mortality rates of juvenile silver hake are high and that discards of juveniles in the traditional silver hake fisheries are excessive, caution against any increase in fishing effort directed at the juvenile sector. If juvenile mortality increases, the spawning stock biomass will decline and the catch of large silver hake in traditional fisheries will also decline.

Generally, increasing the mesh size will delay the age at which fish become susceptible to the gear, thereby reducing juvenile mortality. Increasing the mesh size from 2½ inches (6.35 cm) to 3 inches (7.62 cm), is intended to prevent a shift in the exploitation pattern to younger fish in order to supply the juvenile export market.

With so many uncertainties and the need for caution surrounding the impacts of the emerging juvenile fishery and the displacement of effort from

other fisheries, the Council has started preparing an FMP amendment to regulate fishing for silver hake. Except for the Cultivator Shoal program, fishing for silver hake is currently unregulated and an FMP amendment is required in order to establish a management regime for the entire fishery. However, because of the length of time required for the FMP amendment process, and due to the concerns stated by industry members, as noted above, the Council initiated this framework action for the purpose of implementing conservation measures as quickly as possible for the ongoing Cultivator Shoal fishery.

Framework Adjustment 3 to the FMP limited the amount of regulated species onboard vessels using small mesh to either 500 lb (226.8 kg) or 10 percent of the weight of non-regulated species, whichever is less. In this rule, NMFS is adding language to the possession limit section with the intent of clarifying how this adjustment pertains to the Cultivator Shoal whiting fishery.

NMFS is amending the multispecies regulations following the procedure for framework adjustments established by Amendment 5 and codified in 50 CFR 651, subpart C. The Council followed this procedure when making adjustments to the FMP, by developing and analyzing the actions over the span of a minimum of two Council meetings, on May 12 and June 29, 1994. The Council provided the public with advance notice of both the proposal and the analysis, and opportunity to comment on them prior to and at the June 29 Council meeting. Upon review of the analysis and public comment, the Council recommended to the Regional Director that the measures contained in Framework Adjustment 6 be published as a final rule. The Regional Director has further determined that the measures in Framework Adjustment 6 are appropriate to publish as a final rule.

**Comments and Responses**

In addition to the general public notification, the Council sent a letter to each person who applied for authorization to fish in the Cultivator Shoal Whiting Fishery Program informing him or her of the Council's intent to take action, describing the proposals under consideration, advising them of the availability of relevant documents and analysis, and inviting

comment. During the comment period spanning the two required Council meetings, several members of the public commented in favor of the 3-inch (7.62-cm) mesh proposal, and one fisher opposed it on the grounds that it would reduce flexibility in using different mesh sizes. NMFS believes that an increase in mesh size is warranted to protect the juvenile component of the whiting stocks, and hence the long-term viability of the fishery. One individual questioned the scientific basis for the mesh-size increase. Generally, an increase in mesh size correlates with fewer small fish being caught, increasing the potential yield from the fishery by reducing the revenues lost due to discarding or industrial use of the catch. The traditionally preferred market size for silver hake has been 10 inches (25.4 cm) or greater. According to silver hake selection curves, approximately 22 percent of 10-inch (25.4-cm) fish would be caught by 3-inch (7.62-cm) mesh, as opposed to approximately 32 percent with a 2½-inch (6.35-cm) mesh. With the increased selectivity of the larger mesh, discards that are predominantly of fish under 10 inches (25.4 cm) may be reduced significantly. Other comments focused on the minimum fish size and tolerance provision that the Council removed from its proposal. These comments were taken into account by the Council and NMFS in developing and approving these measures.

**Classification**

This final rule is exempt from review under E.O. 12866.

The Assistant Administrator for Fisheries, NOAA, finds there is good cause to waive prior notice and opportunity for comment under 5 U.S.C. 553(b)(B). The provision of advance notice as described in this rule and public meetings held by the Council to discuss the management measures implemented by this rule provided adequate prior notice and opportunity for public comment to be considered. Thus, additional opportunity for public comment is unnecessary. Because no proposed rule was required, this action is exempt from the procedures of the Regulatory Flexibility Act.

**List of Subjects in 50 CFR Part 651**

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: September 13, 1994.

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:

**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 revising paragraph (a)(4)(i)(B) to read as follows:

§ 651.20 Regulated mesh areas and restrictions on gear and methods of fishing.

- (a) \* \* \*
- (4) \* \* \*
- (i) \* \* \*

(B) A minimum mesh size of 3 inches (7.62 cm) applied to the first 160 meshes counted from the terminus of the net;

\* \* \* \* \*

3. Section 651.27 is amended by revising paragraph (a)(1)(ii)(A) to read as follows:

§ 651.27 Possession limits.

- (a) \* \* \*
- (1) \* \* \*
- (ii) \* \* \*

(A) Any vessel lawfully fishing with or possessing onboard nets of mesh smaller than the regulated minimum size as specified in § 651.20(a)(2) while fishing in the small-mesh exemption area or Cultivator Shoal whiting fishery exemption area as described under and in accordance with § 651.20(a)(3) and § 651.20(a)(4), respectively, or any vessel fishing with nets of mesh smaller than the regulated minimum size as specified in § 651.20(c) and (d), is prohibited from possessing onboard at any time during a trip, or landing per trip, regulated species in excess of 10 percent, by weight, of all other species on board, or 500 lb (226.8 kg), whichever is less.

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