

published in the **Federal Register** on June 21, 2000 (65 FR 38432).

The TRS mandatory minimum standards require TRS providers to handle emergency calls. See 47 CFR 64.604(a)(4) (requiring TRS providers to automatically and immediately transfer emergency calls to an appropriate public safety answering point (PSAP)); *2004 TRS Report and Order*, 19 FCC Rcd at 12521, paragraph 116. The Commission has recognized that, although persons with hearing and speech disabilities should generally make emergency calls directly to the PSAP by calling 911 (e.g., via a TTY), many such individuals use TRS to contact emergency services.

In March 2000, the Commission recognized VRS as a form of TRS eligible for compensation from the Interstate TRS Fund. See *Improved TRS Order and FNPRM*, 15 FCC Rcd 5152–5154, paragraphs 21–27. On December 31, 2001, the Commission granted VRS providers a waiver until December 31, 2003, of certain TRS mandatory minimum standards, including the emergency call handling requirement. This waiver was ultimately extended to January 1, 2006. See *2004 TRS Report and Order*, 19 FCC Rcd 12522, paragraph 118.

On November 30, 2005, the Commission released the *VRS 911 NPRM*, seeking comment on how providers of the Internet-based TRS services, including VRS, may determine the appropriate PSAP to contact when they receive an emergency call. See *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Access to Emergency Services*, Notice of Proposed Rulemaking (*VRS 911 NPRM*), FCC 05–196, CG Docket No. 05–123. The Commission noted the importance of emergency access for VRS users and the necessity to find a means to ensure that VRS calls seeking emergency assistance can be promptly routed to the appropriate emergency service provider. *VRS 911 NPRM*, at paragraphs 1–2, 18.

#### Discussion

The Commission may waive a provision of its rules for “good cause shown.” 47 CFR 1.3; see generally *2004 TRS Report and Order*, 19 FCC Rcd 12520, paragraph 110 (discussing standard for waiving Commission rules). In view of the continued technological challenges to determining the geographic location of TRS calls originating via the Internet, including VRS calls, as well as the recently released *VRS 911 NPRM* seeking comment on this issue, the Commission

finds good cause exists to extend the waiver of the emergency call handling requirement for VRS providers until January 1, 2007 or upon the release of an order addressing the emergency (911) call handling issue, whichever comes first. This waiver, like the previous waivers, is conditioned upon the filing of annual reports, due each April 16th, addressing whether it is necessary for the waiver to remain in effect. See *2004 TRS Report and Order*, 19 FCC Rcd 12520–12521, paragraph 111 (detailing required contents of annual waiver reports). The Commission notes that in the 2005 annual reports the VRS providers agreed that it is not technologically feasible to automatically route emergency calls to the appropriate PSAP, because they do not obtain location information from the VRS user initiating the call via the Internet. See AT&T Corp., 2005 Annual Report on TRS Waivers at 2 (filed on April 18, 2005); Communications Access Center for the Deaf and Hard of Hearing, 2005 Annual Report on Progress of Meeting Waived Requirements at 1–2 (undated); Hamilton Relay, Inc., 2005 Annual Report Concerning IP Relay and VRS at 1–3 (filed on April 15, 2005); Hands On Video Relay Services, Inc., 2005 Annual Report on Progress of Meeting Waived Requirements at 2–3; MCI, 2005 Report on the Status of Waived IP-Relay and Video Relay Services at 11–12 (filed on April 16, 2005); Sorenson Media, Inc., 2005 Annual Report on Status of Waived VRS Requirements at 1–3 (filed on April 15, 2005); Sprint Corporation, 2005 Annual Internet Relay and Video Relay Service Progress Report at 2 (filed on April 14, 2005). Accordingly, the emergency call handling waiver for VRS will expire on January 1, 2007, or upon the release of an order addressing this issue, whichever comes first.

#### Ordering Clause

Pursuant to the authority contained in Sections 0.141, 0.361, 1.3 of the Commission rules, 47 CFR 0.141, 0.361, 1.3, the Order is adopted.

Federal Communications Commission.

**Jay Keithley,**

*Deputy Bureau Chief, Consumer & Governmental Affairs Bureau.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 050613158–5262–03; I.D. 090105A]

RIN 0648–AT48

### Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Extension of Emergency Fishery Closure Due to the Presence of the Toxin That Causes Paralytic Shellfish Poisoning

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

**ACTION:** Temporary rule; emergency action; extension of effective period.

**SUMMARY:** The regulations contained in the temporary rule, emergency action, published on October 18, 2005, at the request of the U.S. Food and Drug Administration (FDA), which are scheduled to expire on December 31, 2005, are extended through June 30, 2006. In the October 18, 2005, action, NMFS reinstated and corrected the temporary regulations published on September 9, 2005, which reopened a portion of Federal waters of the Gulf of Maine, Georges Bank, and southern New England that it had previously closed from June 14 through September 30, 2005, to the harvest for human consumption of certain bivalve molluscan shellfish due to the presence in those waters of the toxin that causes Paralytic Shellfish Poisoning (PSP). The FDA has determined that there is insufficient analytical data to support the scheduled reopening of the entire area to all bivalve molluscan shellfish fishing on January 1, 2006.

**DATES:** The temporary emergency action published on October 18, 2005 (70 FR 60450), is effective from October 18, 2005, through June 30, 2006.

**ADDRESSES:** Copies of the small entity compliance guide prepared for the October 18, 2005, reinstatement of the September 9, 2005, emergency action, are available from Patricia A. Kurkul, Regional Administrator, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930. The small entity compliance guide/permit holder letter is also accessible via the Internet at <http://www.nero.noaa.gov>. Copies of the emergency rule and environmental assessment are available from Patricia

A. Kurkul, at the mailing address specified above.

**FOR FURTHER INFORMATION CONTACT:** E. Martin Jaffe, Fishery Policy Analyst, (978) 281-9272.

**SUPPLEMENTARY INFORMATION:**

**Background**

Toxic algal blooms are responsible for the marine toxin that causes PSP in persons consuming affected shellfish. People have become seriously ill and some have died from consuming affected shellfish under similar circumstances.

On June 10, 2005, the FDA requested that NMFS issue an emergency rule to close an area of Federal waters to the harvesting of bivalve molluscan shellfish intended for human consumption because of toxic algal blooms off the coasts of New Hampshire and Massachusetts. This closure prohibited harvests of shellfish such as Atlantic surfclams and ocean quahogs, as well as scallop viscera. The emergency rule for the action, published in the **Federal Register** on June 16, 2005 (70 FR 35047), stated it would be in effect from June 14 through September 30, 2005, unless extended. The emergency rule was modified on July 7, 2005 (70 FR 39192) to allow for the collection of biological samples by commercial fishing vessels issued a Letter of Authorization signed by the Regional Administrator.

The action temporarily closed all Federal waters of the Exclusive Economic Zone of the northeastern United States to any bivalve molluscan shellfish harvesting, except for Atlantic sea scallops shucked at sea for their adductor muscles, in the area bound by the following coordinates in the order stated: (1) 43°00' N. lat., 71°00' W. long.; (2) 43°00' N. lat., 69°00' W. long.; (3) 40°00' N. lat., 69°00' W. long.; (4) 40°00' N. lat., 71°00' W. long.; and (5) ending at the first point. The scallop adductor muscle, or "meat," is unaffected by the toxin. Further details of the original closure may be found in the preambles of the June 16, 2005, and the July 7, 2005, rules, and are not repeated here.

As a result of tests conducted by the FDA in cooperation with NMFS and the fishing industry, it was determined that toxin levels in a portion of the closure area (described below) were well below those known to cause human illness. With the exception of whole and roe-on scallops, the FDA determined that harvesting of bivalve molluscan shellfish for human consumption from the area described was once again safe.

At the FDA's request, on September 9, 2005, NMFS reopened those waters

south of 41°39' N. lat., west of 69°00' W. long., north of 40°00' N. lat., and east of 71°00' W. long. (70 FR 53580). Because scallop viscera and roe are capable of retaining PSP toxins longer than other species of molluscan shellfish, scallop harvesting was permitted only in the reopened area for the purpose of shucking of the adductor muscle; however, although this limitation was discussed in the preamble of the September 9, 2005, temporary rule, it was inadvertently omitted from the regulatory text.

In the absence of further notice from the FDA, the entire temporary closure would have expired on October 1, 2005. FDA determined on September 23, 2005, that there were insufficient analytical data to support the scheduled reopening of the entire area to all bivalve molluscan shellfish on October 1, 2005; therefore, it requested that NMFS continue the regulations through December 31, 2005. Based on this request, NMFS issued additional temporary rules (70 FR 57517 and 70 FR 60450) to extend the prohibitions through December 31, 2005.

In the absence of further notice from the FDA, the entire temporary closure would have expired on January 1, 2006. FDA has once again determined that there are insufficient analytical data to support the scheduled reopening of the entire area to all bivalve molluscan shellfish on January 1, 2006, and has requested that NMFS continue the regulations, which NMFS agrees to do through June 30, 2006.

**Classification**

This action is issued pursuant to section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1855(c) (Magnuson-Stevens Act).

The original emergency closure was in response to a public health emergency. Pursuant to section 305(c)(3)(C) of the Magnuson-Stevens Act, the closure to the harvest of shellfish, as modified on September 9, 2005, and as reinstated on October 18, 2005, may remain in effect until the circumstances that created the emergency no longer exist, provided that the public has an opportunity to comment after the regulation is published, and, in the case of a public health emergency, the Secretary of Health and Human Services concurs with the Commerce Secretary's action. The public had opportunities to comment on the published regulations and one comment was received. The commenter expressed her reluctance to agree with reopening a portion of the closure without seeing the results of the

FDA's tests. While NMFS is the agency with authority to promulgate the emergency regulations, it modified the regulations on September 9, 2005, at the behest of the FDA, after the FDA had determined that the results of its tests warranted such action. Accordingly, the Secretary of Health and Human Services and the Secretary of Commerce concur that the emergency regulations, as modified on September 9, 2005, and as reinstated on October 18, 2005, should continue through June 30, 2006. If warranted, the regulations may be terminated at an earlier date, pursuant to section 305(c)(3)(D) of the Magnuson-Stevens Act, by publication in the **Federal Register** of a notice of termination, or extended further, if necessary, to ensure the safety of human health.

The October 18, 2005, rule was determined to be not significant under Executive Order 12866.

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

Dated: December 21, 2005.

**John Oliver,**

*Deputy Assistant Administrator for Operations, National Marine Fisheries Service.*

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 648**

[Docket No. 050112008-5102-02; I.D.121205D]

**Fisheries of the Northeastern United States; Atlantic Herring Fishery; Total Allowable Catch Harvested for Management Area 1B**

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

**ACTION:** Temporary rule; closure.

**SUMMARY:** NMFS announces that 95 percent of the Atlantic herring total allowable catch (TAC) allocated to Management Area 1B (Area 1B) for fishing year 2005 is projected to be harvested by December 23, 2005. Therefore, effective 0001 hours, December 23, 2005, federally permitted vessels may not fish for, catch, possess, transfer or land more than 2,000 lb (907.2 kg) of Atlantic herring in or from Area 1B per trip or calendar day until January 1, 2006 when the 2006 TAC becomes available, except for transiting