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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 060712190-6190-01; I.D. 070606B]

RIN 0648-AU55

Fisheries of the Northeastern United States; Atlantic Hagfish Fishery; Reaffirmation of Control Date

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

ACTION: Advance notice of proposed rulemaking (ANPR); reaffirmation of a control date for the Atlantic hagfish fishery; request for comments.

SUMMARY: NMFS announces consideration of proposed rulemaking to control future access to the Atlantic hagfish fishery. The New England Fishery Management Council (Council) has indicated that limiting access to the hagfish fishery may be necessary to control participation in the fishery at a level that reduces capitalization and constrains fishing to sustainable levels, while ensuring that the fishery does not become overfished, as defined by the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

DATES: Written comments must be received by 5 p.m., local time, August 28, 2006.

ADDRESSES: You may submit comments by any of the following methods:

- Mail: Paul J. Howard, Executive Director, New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950. Mark the outside of the envelope, "Comments on Reaffirmation of Atlantic Hagfish Control Date."

- Facsimile (fax): (978) 465-3116.

- Email:

HagfishControlDate@noaa.gov. Include in the subject line of the e-mail comment the following document identifier: "Comments-Hagfish Control Date."

- Federal e-Rulemaking portal <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Bonnie Van Pelt, Fishery Policy

Analyst, 978-281-9244; fax 978-281-9135.

SUPPLEMENTARY INFORMATION: The Atlantic hagfish (*Myxine glutinosa*) fishery in New England was developed in the early 1990s, with the first reported landings of around 1 million lb (454 mt) in 1993. Korean buyers quickly recognized that a fishery in the New England area could provide the high-quality hagfish skins used in making leather, as well as hagfish meat for human consumption. Reported hagfish landings in New England quadrupled during the first 4 years of the fishery (1993-1996), exceeding the highest reported landings in other North American hagfish fisheries (including British Columbia, Oregon, Washington, California, and Nova Scotia) by 1994.

Since there is currently no management program for this fishery, and consequently no permitting or reporting requirements, there is considerable uncertainty regarding the actual level of hagfish landings. Moreover, the level of discards and discard mortality of hagfish culled at sea or rejected by the dealer or processor in port is unknown. In 2003, a working group comprised of scientists, fishery analysts, fishermen, and administrators met to review biological and fishery information for hagfish. The group identified important information gaps, as well as a number of potential approaches to acquiring the data needed to fill them. Hagfish have been collected in limited numbers throughout the 40 years of the Northeast Fisheries Science Center (NEFSC) groundfish trawl survey. These NEFSC surveys provide the best available stock abundance information, but none of the surveys cover the entire range of hagfish habitat, which extends from depths of 25 m to greater than 1,000 m. The results of this working group effort were reviewed by the 37th Northeast Regional Stock Assessment Workshop (37th SAW), and the Stock Assessment Review Committee's Consensus Summary can be found at: <http://www.nefsc.noaa.gov/nefsc/publications/crd/crd0316/index.htm>.

The Council initially considered limiting entry into the hagfish fishery by establishing August 28, 2002 (67 FR 55191), as the date for determining eligibility criteria (i.e., a control date). In a letter dated June 21, 2006, the Council requested that NMFS publish an ANPR to reaffirm the August 28, 2002, hagfish control date and to notify the public of the potential development of a limited access program for hagfish. This reaffirmation of the control date is to inform interested parties of potential

limitations on future access, commonly referred to as limited access, and to discourage speculative entry into the hagfish fishery while the Council considers how access to the fishery can and should be controlled during the proposed development of the Atlantic Hagfish Fishery Management Plan (FMP). By this notification, NMFS reaffirms, on behalf of the Council, that August 28, 2002, may be used as the "control date" to establish eligibility criteria for determining future levels of access to the hagfish fishery. Fishermen who have not participated in the hagfish fishery or who change their level of participation in this fishery are notified that entering this fishery or changing their level of participation after August 28, 2002, may not qualify them as previous participants, should such a criterion be the basis for future access to the hagfish resource. This notification also gives the public notice that interested participants should locate and save records that substantiate their participation in the hagfish fishery in Federal waters. Fishermen are not guaranteed future participation in the fishery, regardless of their entry dates or intensity of participation in this fishery before or after the control date. In addition, the Council and NMFS may choose to give variably weighted consideration to participants active in the fishery before and after the control date. In order to be approved and implemented, any measures proposed by the Council to limit entry into the hagfish fishery must be found consistent with the requirements of the Magnuson-Stevens Act and other applicable law. The public will have the opportunity to comment on the measures and alternatives being considered for inclusion to the FMP by the Council. Various forums exist to allow opportunities for input, including public meetings and public comment periods as required by the National Environmental Policy Act and the Magnuson-Stevens Act, and as provided for by the Administrative Procedure Act.

Classification

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

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

Dated: July 25, 2006.

John Oliver,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

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