

PART 622—FISHERIES OF THE CARIBBEAN, GULF, AND SOUTH ATLANTIC

1. The authority citation for part 622 continues to read as follows:

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

§ 622.34 [Amended]

2. Effective May 15, 2002, through July 15, 2002, in § 622.34, paragraph (h) is suspended.

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DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Parts 648**

[I.D. 031502A]

Fisheries of the Northeastern United States; Petition for Rulemaking for Management of the Atlantic Hagfish Fishery

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

ACTION: Notice of receipt of petition for rulemaking; request for comments.

SUMMARY: NMFS announces receipt of, and requests public comment on, a petition for emergency rulemaking to implement measures to limit the entry of vessels into the unregulated Atlantic hagfish fishery. Mr. William R. Palombo, Nippert Fishing Corporation (Petitioner) has petitioned NMFS, on behalf of the Secretary of Commerce, to implement these measures as soon as possible.

DATES: Comments must be received no later than 5 p.m., Eastern Standard Time, on May 6, 2002.

ADDRESSES: Copies of the letter constituting the petition are available upon request from Patricia A. Kurkul, Regional Administrator, Northeast Region, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930-2298.

Written comments on the petition should be sent to the Regional Administrator at the above address. Mark on the outside of the envelope: "Comments on Petition for Management of the Hagfish Fishery." Comments may also be sent via facsimile (fax) to (978) 281-9371. Comments will not be accepted if submitted via e-mail or the Internet.

FOR FURTHER INFORMATION CONTACT: Myles Raizin, Fishery Policy Analyst,

(978) 281-9104, e-mail at myles.a.raizin@noaa.gov, fax at (978) 281-9135.

SUPPLEMENTARY INFORMATION:**Background**

In November 2001, the Petitioner wrote to the Secretary of Commerce (Secretary) and the New England Fishery Management Council (Council) on behalf of himself, his partner, Steve Nippert, and other members of the Atlantic hagfish industry to request that action be taken to initiate management of Atlantic hagfish (*Myxine glutinosa*). He requested that the Council establish a control date for the fishery and start to develop a fishery management plan. He asked the Secretary to take emergency action under the Magnuson-Stevens Fishery Conservation and Management Act to establish a control date for the fishery and implement a moratorium on new entrants into the fishery. The Assistant Administrator for Fisheries, NOAA, responding on behalf of the Secretary, declined to take emergency action at that time because he felt that the Council arena was the appropriate forum for consideration of the request.

The Council considered the request at its January 17, 2002, meeting. The Council tabled a motion that would have established a control date for the fishery, and instead adopted a motion to request that state fishery agencies develop regulations to manage the fishery. The Council requested that state agencies report back to the Council on the issue in 6 months.

Petition for Rulemaking

On January 18, 2002, the Petitioner submitted a Petition for Rulemaking requesting NMFS to implement immediately emergency measures to limit entry into the Atlantic hagfish fishery. The Petitioner believes that the Council acted irresponsibly, illegally, and contrary to U.S. and international standards when it declined to take action to conserve and manage Atlantic hagfish. He explains that all opponents of the action indicated that they had either added larger vessels to the fishery in the recent past, or are planning on adding larger vessels to the fishery in the future. He notes that the need for larger boats is a result of localized depletion of hagfish and the need to go farther offshore, outside of the range of smaller vessels to find fishable concentrations of hagfish.

The Petitioner notes that opponents' testimony in support of larger vessels in the fishery indicates that large hagfish are taken when hagfish barrels are set on new bottom; this suggests that hagfish

traps are extremely efficient and will catch the standing stock of mature eels very quickly. The Petitioner believes that, before this fishery is allowed to expand, the appropriate rate at which eels can be removed without severely depleting the adult population should be calculated.

The Petitioner believes that there is a misunderstanding regarding the nature of the hagfish market. He states that many believe that the eel skin market drives the demand for hagfish. However, the primary market for hagfish is for meat. He adds that, prior to 1995, it was illegal to import hagfish into Korea for meat. Therefore, the market is relatively new and developing.

The Petitioner notes that the New England catch has risen steadily from zero in 1993 to 6.8 million lb (3,085 mt) in 2000. He explains that hagfish are a long-lived species and have a low reproductive potential compared to most fish species. He states that the surplus production from the hagfish fishery is likely to be limited compared to the absolute abundance fishermen find when setting on virgin grounds. He believes that an unregulated fishery will be more of a mining operation than a fishery. The Petitioner notes that the hagfish fishery in the Sea of Japan has collapsed and has never recovered.

The Petitioner believes that the Council's Red Crab Fishery Management Plan should have considered impacts on the Atlantic hagfish fishery that could result from limited entry measures in the red crab fishery. He has testified before the Council that at least five large vessels are preparing to enter the Atlantic hagfish fishery.

The Petitioner cites NMFS guidelines that advise a precautionary approach to managing new fisheries, where initially fishing should be exploratory in nature and focus on gathering data to estimate life history parameters. He also cites United Nations Food and Agriculture Organization (FAO) advice that managers control access to a fishery early, before problems appear. He further states that FAO recommends putting a cap on both fishing capacity and the total fishing mortality rate, and that caps should remain in place until analyses of data justify an increase in fishing effort.

The Petitioner states that testimony before the Council indicated that there are at least five vessels that have either already entered or are planning to enter the Atlantic hagfish fishery in the near future, and each of these is larger than any of the existing vessels in the fishery. He claims that the total harvesting capacity of the potential entrants alone

is likely to exceed four times the capacity of the existing fleet.

This notice solicits comments from the public regarding the need to proceed with rulemaking for the Atlantic hagfish fishery. NMFS is specifically requesting that the public provide comments on

the biology and ecology of the Atlantic hagfish stock. NMFS will consider this information in determining whether to proceed with the development of regulations requested by the amended petition.

Dated: April 1, 2002.

Rebecca Lent,

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

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