

year. He notes that larger deck spaces allow boats to cull out small individuals and return them to the ocean alive. He also notes he has seen improvement in product quality due to the refrigeration capabilities of larger vessels. He believes that a combination of larger and smaller vessels is desirable for the fishery. He believes that an FMP should be developed, but with the aid of reliable scientific data based on stock assessments. He believes it would be a disservice to the fishery to enact management measures, particularly through an emergency action, without data and questions the legality of emergency action without evidence that an emergency exists.

**Response:** NMFS believes that a control date is an appropriate first step toward management because it provides a tool for the Council should it decide it is necessary to include controlled entry in the management program for the Atlantic hagfish fishery. The manner in which the control date would be utilized would be determined in the future and would not necessarily distinguish between vessels of different sizes.

#### Denial of the Petition

There is no evidence of an emergency regarding the fishery that needs to be addressed. NMFS believes that emergency action is inappropriate because there is no evidence that, if determined necessary, there is sufficient time to develop management measures through the Magnuson-Stevens Act process would result in irreparable harm to the resource. NMFS will urge the Council to start work on a fishery management program for hagfish. In the meantime, publication of the control date will discourage speculative entry into the fishery and provide time for the Council to consider the issues concerning the stock in a full public process.

#### Advance Notice of Proposed Rulemaking to Establish a Control Date

While there currently is no fishery management plan (FMP) for Atlantic hagfish, NMFS will urge the Council to develop one. As part of that FMP, a controlled access system may be required in the hagfish fishery to match fishing capacity to the sustainable harvest level. The limitation of entry into the fishery may be based on levels of participation or other criteria such as domestic harvest capacity.

The control date is intended to discourage speculative entry into the Atlantic hagfish fishery while controlled access schemes are developed by the Council. The control date will help to

distinguish established participants from speculative entrants to the fishery. Although participants are notified that entering the fishery after the control date will not ensure them of future access to the Atlantic hagfish resource on the grounds of previous participation, additional and/or other qualifying criteria may also be applied. The Council may choose different and variably weighted methods to qualify participants based on the type and length of participation in the fishery.

This advance notice of proposed rulemaking establishes August 28, 2002, as the control date for potential use in determining historical or traditional participation in the Atlantic hagfish fishery. Consideration of a control date does not commit the Council or NMFS to develop any particular management regime or criteria for participation in this fishery. The Council or NMFS may choose a different control date, or may choose a management program that does not make use of such a date.

Fishers are not guaranteed future participation in the fishery, regardless of entry date or intensity of participation in this fishery before or after the control date. The Council and NMFS may choose to give variably weighted consideration to fishers active in the fishery before and after the control date. The Council and NMFS may also choose to take no further action to control entry or access to the fishery, in which case the control date may be rescinded. Any action by the Council or NMFS will be taken pursuant to the requirements for FMP development established under the Magnuson-Stevens Act.

This notice also advises the public that, if in the future the Councils or NMFS undertake a controlled entry or limited entry program, evidence of prior participation in the hagfish fishery in Federal waters may be required as a means of demonstrating eligibility.

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

Dated: August 21, 2002.

**William T. Hogarth,**

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

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[I.D. 082002B]

#### New England Fishery Management Council; Public Meeting

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

**ACTION:** Public meeting notification.

**SUMMARY:** The New England Fishery Management Council (Council) will hold a 3-day Council meeting from September 10 through September 12, 2002, to consider actions affecting New England fisheries in the U.S. exclusive economic zone (EEZ).

**DATES:** The meeting will be held on Tuesday, Wednesday, and Thursday, September 10, 11, and 12, 2002. The meeting will begin at 9 a.m. on Tuesday and at 8:30 a.m. on Wednesday and Thursday.

**ADDRESSES:** The meeting will be held at the Providence Biltmore Hotel, 11 Dorrance Street, Kennedy Plaza, Providence, RI 02903; telephone (401) 421-0700. Requests for special accommodations should be addressed to the New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950; telephone (978) 465-0492.

**FOR FURTHER INFORMATION CONTACT:** Paul J. Howard, Executive Director, New England Fishery Management Council, (978) 465-0492.

#### SUPPLEMENTARY INFORMATION:

#### Tuesday, September 10, 2002

Following introductions, newly appointed and re-appointed Council members will take the Oath of Office and the Council will elect its 2002-2003 slate of officers. Late in the morning session there will be a presentation by the State Department liaison on the European Union's request to negotiate a governing international fisheries agreement (GIFA), with particular implications for the Atlantic herring fishery. There also will be a briefing on the status of the U.S. National Plan of Action under the United Nations Food and Agriculture Organization's International Plan of Action to address Illegal, Unregulated, and Unreported Fishing. During the afternoon session there will be a presentation by NMFS Office of Law Enforcement about its Vessel Monitoring System (VMS)

program. There also will be a discussion, led by the Council's VMS Committee, on recommendations concerning consistency of VMS requirements across fishery management plans (FMPs). This will be discussed in the context of a change to the Atlantic Herring FMP that would require evidence of a VMS onboard the vessel prior to issuance of a herring fishing permit, thereby creating consistency with other Council management plans that require a VMS. The Enforcement Committee will then report on a proposal to prohibit fishermen who hold Federal fisheries permits from selling fish to an unlicensed dealer. This committee also will brief the Council on its review of management measures proposed for inclusion in the Northeast Multispecies and Atlantic Sea Scallop FMPs, and the proposed Northeast Skate FMP from an enforcement perspective, the enforceability of general category landings restrictions, particularly the state waters only exemption for Atlantic sea scallops. The final agenda item for the day will consist of a presentation by NMFS staff on streamlining the FMP adjustment and monitoring process and a discussion of potential alternatives that would promote regulatory efficiency.

#### **Wednesday, September 11, 2002**

The Council meeting will reconvene on Wednesday with possible action on groundfish concerning the review and approval of draft text for the status determination criteria section to be included in the Northeast Multispecies FMP Amendment 13 Draft Supplemental Environmental Impact Statement (DSEIS). Council staff also will brief the Council on progress to date on preparation of the Amendment 13 DSEIS to clarify any associated issues related to that work. The Council's Research Steering Committee will then review recent committee activities, including the status and content of recent and future NMFS' Requests for Proposals to solicit collaborative research projects. The Council's Whiting Committee will present a report, including a presentation of 2002 Stock Assessment and Fishery Evaluation Report for small mesh multispecies, and a discussion of recommendations from the Whiting Monitoring Committee. The committee intends to approve initial

action on Framework 37 to the Northeast Multispecies FMP. The Council will select management options for analysis that may modify or eliminate the Year 4 default measure for small mesh multispecies and may establish new exempted fishery areas for whiting within the Gulf of Maine/ Georges Bank Regulated Mesh Area. The Mid-Atlantic and New England Councils will hold a scoping hearing on issues related to Amendment 2 to the Monkfish FMP. The Councils are considering revising the monkfish limited access permit system in Amendment 2 to allow vessels that landed monkfish after the original control date in the southern end of the range of the fishery to qualify for permits. The public will have an opportunity to provide oral comments at this time.

#### **Thursday, September 12, 2002**

The meeting will reconvene on Thursday with reports on recent activities from the Council Chairman and Executive Director, the NMFS Regional Administrator, Northeast Fisheries Science Center and Mid-Atlantic Fishery Management Council liaisons, NOAA General Counsel and representatives of the U.S. Coast Guard, NMFS Enforcement and the Atlantic States Marine Fisheries Commission. This will be followed by a brief period for public comments on any item relevant to Council business, but not otherwise listed on the agenda. The Habitat Committee will request that the Council consider its recommendations on alternatives to minimize the effects of scallop fishing on Essential Fish Habitat for inclusion in Amendment 10 to the Atlantic Sea Scallop FMP and for analysis in the associated DSEIS. During the final afternoon of the meeting, the Scallop Committee will ask the Council to consider approval of final action on Framework Adjustment 15, the annual adjustment to the Atlantic Sea Scallop FMP. Options under consideration for the 2003 fishing year include, but are not limited to, an adjustment to the annual day-at-sea allocations for vessels with full-time, part-time, and occasional limited access permits, ranging from 45 full-time days (no action) to 120 full-time days (status quo) and other amounts that meet the FMP's mortality objective; continuing the controlled access program for one or both of the

Hudson Canyon and Virginia Beach/ North Carolina Areas (VA/NC) or no action (re-opening the areas to general scallop management). The controlled access program changes include raising the scallop possession limit to 21,000 pounds meat weight and allocating trips to limited access vessels based on a high or low mortality target for these rebuilt areas. Other provisions of the controlled access program would continue unchanged. A day-at-sea tradeoff exemption procedure for vessels that fish in the Hudson Canyon and VA/NC Areas controlled access program, but whose trips are terminated early due to weather, illness, equipment failure or other reasons also will be considered. The Council meeting will adjourn once any other outstanding business is addressed.

Although other non-emergency issues not contained in this agenda may come before this Council for discussion, those issues may not be the subjects of formal action during this meeting. Council action will be restricted to those issues specifically listed in this notice. Any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act will be addressed, provided that the public has been notified of the Council's intent to take final action to address the emergency.

The New England Council will consider public comments at a minimum of one Council meeting before making recommendations to the NMFS Regional Administrator on any framework adjustment to a fishery management plan. Documents pertaining to framework adjustments are available for public review 7 days prior to a final vote by the Council.

#### **Special Accommodations**

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting date.

Dated: August 21, 2002.

**Virginia M. Fay,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

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