

Recommended Practices that correspond to these regulations.

#### *Unfunded Mandates Reform Act of 1995*

The Unfunded Mandates Reform Act of 1955 (the Act) is intended, among other things, to curb the practice of imposing unfunded Federal mandates on State, local, and tribal governments. Title II of the Act requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in an expenditure of \$100 million or more (adjusted annually for inflation) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a "significant regulatory action." This rule does not contain such a mandate. The requirements of Title II of the Act, therefore, do not apply.

#### *Executive Order 13132, Federalism*

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132, dated August 4, 1999 (64 FR 43255). This rule does not have a substantial direct effect on, or significant federalism implications for the States, nor would it limit the policymaking discretion of the States.

This rule would not directly preempt any State law or regulation, nor impose burdens on the States. This action would not have a significant effect on the States' ability to execute traditional State governmental functions. The agency has, therefore, determined that this proposal does not have sufficient federalism implications to warrant either the preparation of a federalism summary impact statement or require consultations with State and local governments.

#### *Paperwork Reduction Act*

The Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 et seq.) requires Federal agencies to obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct, sponsor, or require through regulation. The agency has determined that the rule would not impose any additional requirements and does not change the paperwork collection that currently exists.

#### **List of Subjects**

##### *14 CFR Part 204*

Air carriers, Reporting and recordkeeping requirements.

##### *14 CFR Part 399*

Administration practice and procedure, Air carriers, Consumer protection.

■ For the reasons stated in the preamble, the Department amends 14 CFR part 204 as set forth below:

#### **PART 204—DATA TO SUPPORT FITNESS DETERMINATIONS**

■ 1. The authority citation for part 204 continues to read as follows:

**Authority:** 49 U.S.C. Chapters 401, 411, 417.

■ 2. Revise § 204.1 to read as follows:

##### **§ 204.1 Purpose.**

This part sets forth the fitness data that must be submitted by applicants for certificate authority, by applicants for authority to provide service as a commuter air carrier to an eligible place, by carriers proposing to provide essential air transportation, and by certificated air carriers and commuter air carriers proposing a substantial change in operations, ownership, or management. This part also contains the procedures and filing requirements applicable to carriers that hold dormant authority.

■ 3. Revise § 204.2(c)(3) to read as follows:

##### **§ 204.2 Definitions.**

\* \* \* \* \*

(c) *Citizen of the United States* means:

\* \* \* \* \*

(3) A corporation or association organized under the laws of the United States or a State, the District of Columbia, or a territory or possession of the United States, of which the president and at least two-thirds of the board of directors and other managing officers are citizens of the United States, which is under the actual control of citizens of the United States, and in which at least 75 percent of the voting interest is owned or controlled by persons that are citizens of the United States.

\* \* \* \* \*

■ 4. Amend § 204.5 as follows:

■ A. Revise paragraph (a)(2) to read as set forth below;

■ B. Amend paragraph (b) to remove the "s" after "Carrier" in the third sentence in the reference to "Air Carrier Fitness Division";

■ C. Revise paragraph (c) to read as set forth below; and

■ D. Add a new paragraph (d) to read as set forth below.

The revisions read as follows:

#### **§ 204.5 Certificated and commuter air carriers undergoing or proposing to undergo a substantial change in operations, ownership, or management.**

(a) \* \* \*

(2) The change substantially alters the factors upon which its latest fitness finding is based, even if no new authority is required.

\* \* \* \* \*

(c) Information filings pursuant to this section made to support an application for new or amended certificate authority shall be filed with the application and addressed to Docket Operations, M-30, U.S. Department of Transportation, Washington, DC 20590, or by electronic submission at [<http://dms.dot.gov>].

(d) Information filed in support of a certificated or commuter air carrier's continuing fitness to operate under its existing authority in light of substantial changes in its operations, management, or ownership, including changes that may affect the air carrier's citizenship, shall be addressed to the Chief, Air Carrier Fitness Division, Office of the Secretary, U.S. Department of Transportation, Washington, DC 20590.

Issued in Washington, DC, on April 16, 2007.

**Andrew B. Steinberg,**

*Assistant Secretary for Aviation and International Affairs.*

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#### **DEPARTMENT OF COMMERCE**

#### **National Oceanic and Atmospheric Administration**

##### **15 CFR Part 902**

##### **50 CFR Part 648**

##### **RIN 0648-AU80**

[Docket No. 061016268-7080-02; I.D. 100506E]

#### **Fisheries of the Northeastern United States; Regulatory Amendment to Modify Recordkeeping and Reporting and Observer Requirements**

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

**ACTION:** Final rule.

**SUMMARY:** NMFS issues this final rule to implement measures to modify the existing reporting and recordkeeping requirements for federally permitted seafood dealers/processors, and the observer requirements for participating hagfish vessels. The New England

Fishery Management Council (Council) requested that this information collection program be developed to gather additional information on the unique aspects of the hagfish fishery and its interaction with other federally managed fisheries. The information collected from fishery participants (dealers/processors and vessels) will help the Council potentially develop a Hagfish Fishery Management Plan (FMP).

**DATES:** Effective May 23, 2007.

**ADDRESSES:** Copies of the regulatory amendment, its Regulatory Impact Review (RIR) and other supporting materials are available from Patricia A. Kurkul, Regional Administrator, Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this final rule may be submitted to Patricia A. Kurkul at the above address and by e-mail to [David\\_Rostker@omb.eop.gov](mailto:David_Rostker@omb.eop.gov), or by fax to (202) 395-7285.

**FOR FURTHER INFORMATION CONTACT:** Douglas Potts, Fishery Management Specialist, (978) 281-9341.

**SUPPLEMENTARY INFORMATION:**

**Background**

On October 3, 2006, the Council sent NMFS a request to prepare an information collection program for the Atlantic hagfish fishery under the provisions of section 402(a) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The request is based on a desire to improve upon the quality and quantity of information available on the hagfish resource and its fishery operations. The Council plans to use this information to determine whether future management measures for hagfish under an FMP are necessary. Without this information collection on hagfish, future management measures may not capture accurately the geographic and seasonal aspects of the fishery, which reflect overseas demand, and ensure that the resource may be sustained in future years. This collection of information (with changes, as appropriate) may be extended through the development and implementation of a Hagfish FMP.

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 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.

Today, the hagfish fishery relies on revenues from the export of whole frozen hagfish product overseas, primarily to South Korea, for meat consumption. The hagfish fishery prosecuted off the coast of Gloucester, MA has changed from an inshore fishery comprised of small vessels to an offshore fishery that consists of large vessels. According to reports from a workshop that was held to identify the challenges in collecting information on this fishery, the reason for this change in the way the fishery is being conducted is that the fishery has experienced localized depletion in nearshore waters, necessitating movement of fishing effort to areas not historically fished for hagfish.

**Dealer/processor Permitting and Reporting Requirements**

To meet the Council's request for information, this final rule will require that all seafood dealers who intend to purchase hagfish caught in or from the Exclusive Economic Zone (EEZ) to be permitted under § 648.6, and to submit, on a weekly basis, an electronic dealer report containing the required trip-level information for each purchase of hagfish made from fishing vessels, as per the regulations at § 648.7. Hagfish dealers will be required to obtain an initial dealer permit upon implementation of the hagfish information collection requirements and to renew the permit annually thereafter. Reports furnished by permitted dealers will help determine the level of discards and discard mortality of hagfish returned to the sea in response to rejection by the dealer in port. In addition, the collection of dealer purchase reports will help to verify landings reported in Vessel Trip Reports (VTRs) for those vessels that have VTR requirements, and for those that do not, the dealers will be required to report vessel identifiers. It is unlikely that additional dealers will join the fishery because the fishery is driven by a narrowly focused export market (South Korea only) that is currently in equilibrium with supply. However, this permitting and reporting requirement will also enable the identification of any new vessel and/or dealer entrants into the fishery.

**Dealer/processor Reports**

All federally permitted seafood dealers subject to this final rule will be required to complete all sections of the Annual Processed Products Report (§ 648.7). The report can be used by the Council in developing an FMP, to estimate processing capacity, and to forecast and subsequently measure the potential economic impact of fishery management regulations on fish and shellfish supplies. Employment data collected through the report can also be used to analyze the seasonality of the fishery.

**Observer Requirement**

Under the hagfish information collection program, any vessel owner/operator that fishes for, catches, or lands hagfish, or intends to fish for, catch, or land hagfish in or from the EEZ will be required to carry an observer when requested by the Regional Administrator in accordance with § 648.11. Consistent with current observer regulations, hagfish vessel owners/operators will be required to call to arrange deployment of NMFS-approved observers on their vessels and to ensure adequate space for the observer aboard their vessels, once requested to carry an observer by the Regional Administrator. Although the vessels must call to arrange deployment of observers, hagfish vessels will not be required to pay for the observers; funding of observer coverage for this fishery will be provided by NMFS. These requests will be made for the purpose of monitoring fishing activities, collecting biological data, and complying with the information collection program requirements. Observers are particularly important because of the high discard rates that have been reported to occur in the hagfish fishery and because the proportion of the catch that is rejected by the dealer and later discarded at sea is not currently measured.

The hagfish observer coverage objectives will focus on the collection of basic fleet information and observations of fishing behavior, including, but not limited to, the distribution of fishing effort, number of hauls per trip, area/depth fished, trip length, soak time, discard rates of hagfish or other species, gear type/configuration, and gear deployment methodology. Understanding and quantifying the likelihood of marine mammal and sea turtle entanglements that may occur in hagfish gear in the areas fished is also an important observer program objective. The configuration of hagfish gear is similar enough to lobster gear that it is believed to pose the same or

similar entanglement threat to large whales; and there have been two large whale entanglements documented in the hagfish fishery: One in 1997 involving entanglement of a finback whale; and one in 2002 involving a humpback whale.

### Comments and Responses

The deadline for comments on the proposed rule was December 1, 2006. NMFS received one comment letter that did not address the proposed rule.

### Classification

The Administrator, Northeast Region, NMFS, determined that this regulatory amendment is necessary for the conservation and management of the hagfish fishery and that it is consistent with the Magnuson-Stevens Act and other applicable laws.

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

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification or the economic impacts of this proposed rule. As a result, a regulatory flexibility analysis was not required and none was prepared.

This final rule contains a collection-of-information requirement subject to the Paperwork Reduction Act (PRA) and which has been approved by OMB under control numbers 0648-0018, 0648-0229, and 0648-0555. The estimated public reporting burden per individual response for the new and revised collection of information requirements related to the hagfish information collection program are estimated to average: 2 minutes to request an observer (OMB #0648-0555); 4 minutes for a dealer purchase report (OMB #0648-0229); 15 minutes and 5 minutes for initial dealer permit application/renewal application (OMB #0648-0555), respectively; and 30 minutes for the Annual Processed Products Report (OMB #0648-0018). These reporting burden estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding these burden estimates or any other aspect of this data

collection, including suggestions for reducing the burden, to NMFS (see **ADDRESSES**) and by e-mail to *David\_Rostker@omb.eop.gov*, or fax to 202-395-7285. Notwithstanding any other provision of the law, no person is required to respond to, and no person shall be subject to penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

### List of Subjects

#### 15 CFR Part 902

Reporting and recordkeeping requirements.

#### 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: April 13, 2007.

**Samuel D. Rauch III,**

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

■ For the reasons set out in the preamble, 15 CFR chapter IX, part 902, and 50 CFR chapter VI, part 648, are amended as follows:

### PART 902—NOAA INFORMATION COLLECTION REQUIREMENTS UNDER THE PAPERWORK REDUCTION ACT: OMB CONTROL NUMBERS

■ 1. The authority citation for part 902 continues to read as follows:

**Authority:** 44 U.S.C. 350 *et seq.*

■ 2. In § 902.1, the table in paragraph (b) under “50 CFR” is amended by revising entries for 648.6 and 648.11, in numerical order, to read as follows:

#### § 902.1 OMB control numbers assigned pursuant to the paperwork Reduction Act

CFR part or section where the information collection requirement is located					Current OMB control number the information (All numbers begin with 0648-)
*	*	*	*	*	*
50 CFR	*	*	*	*	*
648.6	*	*	*	*	-0202, -0555
648.11	*	*	*	*	-0202, -0555

CFR part or section where the information collection requirement is located					Current OMB control number the information (All numbers begin with 0648-)
*	*	*	*	*	*

### 50 CFR Chapter VI

### PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

■ 1. The authority citation for part 648 continues to read as follows:

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

■ 2. In § 648.2, a new definition for “Atlantic hagfish” is added, in alphabetical order, to read as follows:

#### § 648.2 Definitions.

\* \* \* \* \*

*Atlantic hagfish* means *Myxine glutinosa*.

\* \* \* \* \*

■ 3. In § 648.6, paragraph (a)(1) is revised to read as follows:

#### § 648.6 Dealer/processor permits.

(a) \* \* \*

(1) All dealers of NE multispecies, monkfish, skates, Atlantic herring, Atlantic sea scallop, Atlantic deep-sea red crab, spiny dogfish, summer flounder, Atlantic surf clam, ocean quahog, Atlantic mackerel, squid, butterfish, scup, bluefish, tilefish, and black sea bass; Atlantic surf clam and ocean quahog processors; Atlantic hagfish dealers and/or processors, and Atlantic herring processors or dealers, as described in § 648.2; must have been issued under this section, and have in their possession, a valid permit or permits for these species.

\* \* \* \* \*

■ 4. In § 648.7, paragraph (a)(3)(iv) is added to read as follows:

#### § 648.7 Recordkeeping and reporting requirements.

(a) \* \* \*

(3) \* \* \*

(iv) Atlantic hagfish processors must complete and submit all sections of the Annual Processed Products Report.

\* \* \* \* \*

■ 5. In § 648.11, paragraph (a) is revised to read as follows:

#### § 648.11 At-sea sea sampler/observer coverage.

(a) The Regional Administrator may request any vessel holding a permit for Atlantic sea scallops, NE multispecies,

monkfish, skates, Atlantic mackerel, squid, butterfish, scup, black sea bass, bluefish, spiny dogfish, Atlantic herring, tilefish, or Atlantic deep-sea red crab; or a moratorium permit for summer flounder; to carry a NMFS-approved sea sampler/observer. Also, any vessel or vessel owner/operator that fishes for, catches or lands hagfish, or intends to fish for, catch, or land hagfish in or from the exclusive economic zone must carry a NMFS-approved sea sampler/observer when requested by the Regional Administrator in accordance with the requirements of this section.

\* \* \* \* \*

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## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

#### 21 CFR Part 1310

[Docket No. DEA-299I]

RIN 1117-AB12

#### Control of a Chemical Precursor Used in the Illicit Manufacture of Fentanyl as a List I Chemical

**AGENCY:** Drug Enforcement Administration (DEA), U.S. Department of Justice.

**ACTION:** Interim rule with request for comments.

**SUMMARY:** This rulemaking controls the chemical N-phenethyl-4-piperidone (NPP) as a List I chemical under the Controlled Substances Act (CSA) (21 U.S.C. 801 *et seq.*). Clandestine laboratories are using this chemical to illicitly manufacture the schedule II controlled substance fentanyl.

The recent distribution of illicitly manufactured fentanyl has caused an unprecedented outbreak of hundreds of suspected fentanyl-related overdoses, at least 972 confirmed fentanyl-related deaths, and 162 suspected fentanyl-related deaths occurring mostly in Delaware, Illinois, Maryland, Michigan, Missouri, New Jersey, and Pennsylvania. NPP has been identified as the starting material in several seized fentanyl clandestine laboratories. In addition to DEA's concern regarding the deaths associated with illicitly manufactured fentanyl, DEA is extremely concerned about the safety of law enforcement officers encountering these clandestine laboratories. Therefore, DEA is regulating NPP as a List I chemical through this Interim Rulemaking. DEA is soliciting comments on this Interim Rule.

This rulemaking will subject handlers of NPP to the chemical regulatory provisions of the CSA and its implementing regulations, including 21 CFR Parts 1309, 1310, 1313, and 1316. This rulemaking does not establish a threshold for domestic and international transactions of NPP. As such, all transactions involving NPP, regardless of size, shall be regulated. This rulemaking also specifies that chemical mixtures containing NPP will not be exempt from regulatory requirements at any concentration. Therefore, all transactions of chemical mixtures containing any quantity of NPP will be regulated and will be subject to control under the CSA.

**DATES:** This rulemaking will become effective on April 23, 2007. Persons seeking registration must apply on or before June 22, 2007 to continue their business pending final action by DEA on their application.

Written comments must be postmarked, and electronic comments must be sent on or before June 22, 2007.

**ADDRESSES:** To ensure proper handling of comments, please reference "Docket No. DEA-299I" on all written and electronic correspondence. Written comments via regular mail should be sent to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537, Attention: DEA **Federal Register** Representative/ODL. Written comments sent via express mail should be sent to DEA Headquarters, Attention: DEA **Federal Register** Representative/ODL, 2401 Jefferson-Davis Highway, Alexandria, VA 22301. Comments may be sent directly to DEA electronically by sending an electronic message to [dea.diversion.policy@usdoj.gov](mailto:dea.diversion.policy@usdoj.gov). Comments may also be sent electronically through <http://www.regulations.gov> using the electronic comment form provided on that site. An electronic copy of this document is also available at the <http://www.regulations.gov> Web site. DEA will accept attachments to electronic comments in Microsoft word, WordPerfect, Adobe PDF, or Excel file formats only. DEA will not accept any file formats other than those specifically listed here.

**FOR FURTHER INFORMATION CONTACT:** Christine A. Sannerud, Ph.D., Chief, Drug and Chemical Evaluation Section, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537 at (202) 307-7183.

**SUPPLEMENTARY INFORMATION:**

### Background

The DEA is extremely concerned with the increase in the illicit manufacture and distribution of fentanyl, which has resulted in hundreds of fentanyl-related overdoses and fentanyl-related deaths across the country. Fentanyl is a schedule II controlled substance. Fentanyl and analogues of fentanyl are the most potent opioids available for human and veterinary use. Fentanyl produces opioid effects that are indistinguishable from morphine or heroin. However, fentanyl has a greater potency and a shorter duration of action. Fentanyl is approximately 50 to 100 times more potent than morphine and 30 to 50 times more potent than heroin depending on the physiological or behavioral endpoints being measured, the route of administration, and other factors.

The legitimate medical use of fentanyl is for anesthesia and analgesia, but fentanyl's euphoric effects are highly sought after by narcotic addicts. Fentanyl can serve as a direct pharmacological substitute for heroin in opioid dependent individuals. However, fentanyl is a very dangerous substitute for heroin because the amount that produces a euphoric effect also induces respiratory depression. Furthermore, due to fentanyl's increased potency over heroin, illicit drug dealers have trouble adjusting ("cutting") pure fentanyl into proper dosage concentrations. As a result, unsuspecting heroin users or heroin users who know the substance contains fentanyl have difficulty determining how much to take to get their "high" and mistakenly take a lethal quantity of the fentanyl. Unfortunately, only a slight excess in the amount of fentanyl taken can be, and is often, lethal because the resulting level of respiratory depression is sufficient to cause the user to stop breathing.

In April 2006, DEA issued an officer safety alert regarding the special precautions that must be observed when handling and processing suspected fentanyl. DEA is concerned with the unusual health hazards posed to law enforcement officers and forensic chemists from exposure to high purity fentanyl during law enforcement operations. Since high purity fentanyl can be fatal if sub-milligram quantities are accidentally swallowed, inhaled, or absorbed through the skin, the potential for lethal fentanyl exposure to law enforcement officers exists during raids of fentanyl clandestine laboratories, during seizures of drug exhibits, and during subsequent testing of pure fentanyl in the forensic laboratories. The