

authority. (The direct certifying authority of DHHS extends only to laboratories that would participate in the Federal employee testing program.) Second, DHHS could review the standards and procedures of a foreign certifying agency. If DHHS determined that the foreign agency had standards, procedures, and authority equivalent to those of DHHS, DHHS would recommend to DOT that DOT deem the foreign agency to be an equivalent certifying authority. Laboratories that the foreign agency certified would then be permitted to participate in the DOT testing program.

DOT and DHHS have discussed laboratory issues with officials of Transport Canada, the Canadian Trucking Association and its affiliates, and the Standards Council of Canada (a potential laboratory certification organization in Canada), as well as representatives of some Canadian laboratories. We have also had discussions with Mexican officials concerning program and laboratory matters. While a number of issues remain to be resolved, the Department is proposing a change to 49 CFR § 40.39 to accommodate the possibility that foreign laboratories may be able to participate in DOT-mandated drug testing.

The proposed amendment would add a new paragraph to authorize the participation of foreign laboratories in the DOT drug testing program in the two circumstances outlined above (i.e., based on a recommendation by DHHS that a particular laboratory meets DHHS certification requirements, or based on a certification by a foreign certifying organization whose standards and process had been deemed equivalent to those of DHHS). It should be emphasized that, if adopted, the proposed amendment would not have the effect of actually certifying any foreign laboratories. It would simply put in place a mechanism that would allow such laboratories to participate, if and when DOT and DHHS had determined that all issues had been resolved satisfactorily, in full compliance with DHHS requirements for laboratory certification.

Regulatory Process Matters

The proposed rule is considered to be a nonsignificant rulemaking under DOT Regulatory Policies and Procedures, 44 FR 11034. It also is a nonsignificant rule for purposes of Executive Order 12886. The Department certifies, under the Regulatory Flexibility Act, that the NPRM, if adopted, would not have a significant economic effect on a substantial number of small entities.

The NPRM would not impose any costs or burdens on regulated entities, since it deals with a subject (applying for laboratory certification) that is completely voluntary. The rule has also been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that it does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The comment period is 45 days rather than 60 because, in order to permit the Department to certify foreign laboratories before the July 1, 1996, start date for testing of foreign drivers, the Department needs to complete this rulemaking on an expedited basis.

List of Subjects in 49 CFR Part 40

Drug Testing, Alcohol Testing, Reporting and Recordkeeping Requirements, Safety, Transportation.

For the reasons set forth in the preamble, 49 CFR Part 40 is proposed to be amended as follows:

PART 40—[AMENDED]

1. The authority citation for Part 40 would continue to read as follows:

Authority: 49 U.S.C. 102, 301, 322; 49 U.S.C. app. 1301nt., app. 1434nt., app. 2717, app. 1618a.

2. Section 40.39 is proposed to be revised to read as follows:

§ 40.39 Use of Certified Laboratories.

(a) Except as provided in paragraph (b) of this section, employers subject to this part shall use only laboratories certified under the DHHS "Mandatory Guidelines for Federal Workplace Drug Testing Programs," April 11, 1988, and subsequent amendments thereto.

(b) Employers subject to this part may also use laboratories located outside the United States if—

(1) The Department of Transportation, based on a recommendation from DHHS, has certified the laboratory as meeting DHHS laboratory certification standards; or

(2) The Department of Transportation, based on a recommendation from DHHS, has recognized a foreign certifying organization as having equivalent laboratory certification standards and procedures to those of DHHS, and the foreign certifying organization has certified the laboratory pursuant to those equivalent standards and procedures.

Issued this 20th day of March 1996, at Washington, D.C.

Federico Peña,

Secretary of Transportation.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 628

[Docket No. 960315079-6079-01; I.D. 031296D]

Atlantic Bluefish Fishery; Proposed Removal of FMP

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes the withdrawal of Secretarial approval of the Atlantic Bluefish Fishery Management Plan (FMP) and removal of its implementing regulations. This action is taken in response to the President's Regulatory Reform Initiative.

DATES: Public comments must be received on or before May 13, 1996.

ADDRESSES: Copies of the draft Environmental Assessment (EA) and Regulatory Impact Review are available from the Northeast Regional Office, National Marine Fisheries Service, 1 Blackburn Drive, Gloucester, MA 01930.

Comments should be sent to Dr. Andrew A. Rosenberg, Regional Director, at the same address above. Please mark the envelope "Comments—Bluefish Withdrawal."

FOR FURTHER INFORMATION CONTACT: Myles Raizin, 508-281-9104.

SUPPLEMENTARY INFORMATION: Bluefish is a species that is found and harvested predominantly in state waters. The bluefish stock is described as overexploited with total catch having decreased from approximately 70,000 mt in 1983 to 22,000 mt in 1992 (17th Northeast Regional Stock Assessment Workshop, 1994). The recreational catch accounted for approximately 17,000 mt or 72 percent of the combined recreational and commercial catch in 1992. The 1994 Marine Recreational Fisheries Survey estimated that 93 percent of all recreational landings (11,963,000 fish) in that year were taken in state waters.

The FMP was prepared through the joint efforts of the Mid-Atlantic Fishery Management Council (Council) and the Atlantic States Marine Fisheries Commission (ASMFC). It was designed to promote conservation of one of the most important Atlantic coast recreational species. It was approved by the Secretary of Commerce on March 20, 1990. The Council and the ASMFC

developed the FMP to address problems they anticipated could develop if the fishery expanded or the resource declined. Prior to the approval of the FMP there were few harvest regulations in any states, and comprehensive management was non-existent. After adoption of the FMP, all states implemented conservation measures. Annual management measures (e.g., possession limits) are recommended by the ASMFC for state waters and by the Council for the exclusive economic zone (EEZ). The EEZ measures include a permit requirement for individuals conducting a commercial fishery, a possession limit of 10 fish that could be adjusted from 0 to 15 fish in order to reflect stock conditions, a limit on commercial catch of 20 percent of the total overall catch, and a framework that allowed for the imposition of commercial fishery controls including state quotas when the commercial limit is exceeded.

As part of the President's plan for reform of the Federal regulatory system, NMFS proposes to remove the bluefish implementing regulations. Since the ASMFC already adopted an Interstate Fishery Management Plan for Atlantic Bluefish, the Magnuson Act regulations implementing the Federal Fishery Management Plan (FMP) for the Atlantic Bluefish Fishery are unnecessarily duplicative. Withdrawal of the FMP is consistent with National Standard 7, which requires that management measures shall, where practicable, minimize costs and avoid unnecessary duplication.

Furthermore, because the fishery takes place primarily in state waters, the ASMFC is an appropriate authority for management. If future management measures in the EEZ are required, the Atlantic Coastal Act allows the states to request NMFS to implement complementary measures in the EEZ.

The Atlantic Coastal Act requires that an interstate fishery management plan contain a recommendation to the Secretary regarding measures to be implemented in the EEZ before he can undertake action. The Council and ASMFC have been working on a plan amendment, which could be modified by ASMFC to specify EEZ management measures that could be implemented under the Atlantic Coastal Act. NMFS does not intend to withdraw the FMP until NMFS issues regulations for the EEZ under the Atlantic Coastal Act.

Classification

This proposed rule has been determined to be not significant for purposes of E.O. 12866.

NMFS prepared a draft EA for this action that discusses the impact on the environment as a result of this rule. A copy of the EA may be obtained from NMFS (see ADDRESSES).

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities, because the number affected is less than 20 percent of the number of small entities operating in the fishery.

List of Subjects for 50 CFR Part 628

Fishing, Reporting and recordkeeping requirements.

Dated: March 21, 1996.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service

For the reasons set out in the preamble, under the authority of 16 U.S.C. 1801 *et seq.*, 50 CFR part 628 is proposed to be removed.

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50 CFR Parts 656 and 697

[Docket No. 950915230-6080-02; I.D. 022796D]

RIN 0648-AH57

Atlantic Striped Bass Fishery; Atlantic Coastal Fisheries Cooperative Management; Consolidation and Revision of Regulations

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes consolidation of regulations pertaining to the Atlantic striped bass and weakfish fisheries, which are now contained in two CFR parts, into a single part. The consolidated regulations would be revised to be more concise, better organized, and easier for the public to use. In addition, certain prohibitions and definitions currently in parts 656 and 697 would be removed and replaced by references to general sections of the regulations to achieve conformity and to eliminate unnecessary regulatory text. This action is part of the President's Regulatory Reinvention Initiative.

DATES: Comments must be received by April 29, 1996.

ADDRESSES: Comments should be sent to Tom Meyer, Office of Fisheries Conservation and Management, F/CM1, National Marine Fisheries Service, 1335 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Tom Meyer, (301) 713-2337.

SUPPLEMENTARY INFORMATION:

NMFS proposes to remove 50 CFR part 656 and revise 50 CFR part 697 by consolidating into part 697 the regulations previously contained in parts 656 and 697. Duplicative regulatory text previously contained in parts 656 and 697 would be eliminated.

In March 1995, President Clinton issued a directive to Federal agencies regarding their responsibilities under his Regulatory Reinvention Initiative. This initiative is part of the National Performance Review and calls for immediate, comprehensive regulatory reform. The President directed all agencies to undertake an exhaustive review of all their regulations, with an emphasis on eliminating or modifying those that are obsolete, duplicative, or otherwise in need of reform. This proposed rule is intended to carry out the President's directive with respect to the regulations implementing the Atlantic Coastal Fisheries Cooperative Management Act (16 U.S.C. 5101 *et seq.*) and the Atlantic Striped Bass Conservation Act Appropriations Authorization (16 U.S.C. 1851 note).

The consolidation and revisions proposed in this rule are not meant to change the substance of the existing regulations. They are intended to make the regulations easier for the public to use and to reduce the volume and publication costs of the regulations.

In addition, some of the prohibitions and definitions currently in parts 656 and 697 would be removed. Instead, the consolidated part 697 would reference definitions and general prohibitions to be contained in 50 CFR part 600 regulations; part 600 is also being proposed for consolidation and revision through another rulemaking. The reference to standard language, rather than the language now contained in parts 656 and 697, could result in some changes in how the Atlantic striped bass and weakfish regulations are enforced. The intent of the proposed changes is to achieve consistency of language, enhance understanding of the regulation's requirements, and to eliminate unnecessary regulatory text.

Classification

This proposed rule has been determined to be not significant for the purposes of E.O. 12866.