Inert ingredients	Limits	Uses
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Oxidized pine lignin, sodium salt (CAS Reg. No. 68201-23-0)	Maximum of 2% of formulation	Surfactant or adjuvant to surfactant
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Inert ingredients	Limits	Uses
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Oxidized pine lignin, sodium salt (CAS Reg. No. 68201-23-0)	Maximum of 2% of formulation	Surfactant or adjuvant to surfactant
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[FR Doc. 96–7448 Filed 3–26–96; 8:45 am]
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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 649

[Docket No. 960315082–6082–01; I.D. 031296C]

RIN 0648–XX55

American Lobster Fishery; Removal of Regulations

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS announces its initial determination to withdraw approval of the Fishery Management Plan for the American Lobster Fishery (FMP), and proposes to remove the regulations implementing the FMP. Withdrawal of FMP approval appears necessary, because changed circumstances have called into question whether this FMP is consistent with the national standards of the Magnuson Fishery Conservation and Management Act (Magnuson Act). The intended effect of this action is to ensure that Federal management of the American lobster fishery more closely complies with state-administered programs.

DATES: Comments on the proposed rule must be received on or before May 13, 1996.

ADDRESSES: Comments on the proposed rule should be sent to Dr. Andrew A. Rosenberg, Regional Director, Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930-3799.

Copies of the Environmental Assessment (EA) supporting this action and the regulatory impact review (RIR) are available from the same address.

FOR FURTHER INFORMATION CONTACT: Paul H. Jones, Fishery Policy Analyst, 508-281-9273.

SUPPLEMENTARY INFORMATION:

The subject FMP, prepared by the New England Fishery Management Council (Council), was approved and implemented in 1983. Implementing regulations are found at 50 CFR part 649. The FMP has been amended several times since implementation, most recently by Amendment 5. The purpose of Amendment 5 is to prevent overfishing through adoption of a stock rebuilding program in the exclusive economic zone (EEZ) to be developed by effort management teams (EMTs) to enhance the existing regulations, including those implemented by the individual coastal states and the Atlantic States Marine Fisheries Commission (ASMFC). Amendment 5 has not yet achieved this objective and on September 18, 1995 (60 FR 48086), NMFS published an advance notice of proposed rulemaking (ANPR) that requested comments from the public on options for lobster management. This proposed rule discusses the comments received as a result of the ANPR and the other circumstances that give rise to this proposed action to withdraw the FMP.

These options were discussed in the ANPR: Whether to withdraw the FMP and develop regulations under the Atlantic Coastal Fisheries Cooperative Management Act (ACFCMA), or proceed with development of a Secretarial fishery management plan, or some other option. NMFS stated that it wished to retain as many current measures as possible under the law, and especially desired to consider those measures proposed by the group of industry, government, and other non-government participants who constituted the EMTs. Written responses were received on the ANPR from the Council, the ASMFC, two state fishery agencies, three fishing associations, and one individual. Two comments favored withdrawal of the FMP and the development of regulations under the ACFCMA. Five comments requested that NMFS keep the current FMP in place while the ASMFC develops an amendment to its lobster coastal management plan (CMP). The one remaining comment was in favor of Secretarial action for the offshore lobster fishery.

There are several reasons to withdraw this FMP. In accordance with the goals of the initiative to reform the Federal regulatory system announced by the President on February 21, 1995, the lobster FMP can be eliminated without compromising resource management and conservation objectives. The American lobster fishery is prosecuted primarily in state waters from Maine to Virginia and these states have implemented protective measures under state law in addition to the ASMFC CMP. Final withdrawal of the FMP and its implementing regulations would only occur upon completion of an effective state management program, most likely developed by the ASMFC. The primary objective of the FMP has been to serve as a vehicle for coordinated management of the American lobster fishery throughout its range. The FMP was prepared to support the management efforts of the states. However, the need for a Magnuson Act fishery management plan for lobster is now in question, given the

compliance authority included in the ACFCMA.

In addition, NMFS can no longer ensure that the FMP is, or can be amended to be, consistent with National Standard 1, which requires implementation of conservation and management measures to prevent overfishing. Fishing mortality for American lobster is occurring at a rate in excess of that in the overfishing definition, and Amendment 5 has not fostered the necessary cooperation between the Atlantic coastal states, the Council, and the ASMFC to address the problem. Withdrawal would allow the ASMFC to address the overfished condition of the stocks unhindered by the Council process.

Withdrawal would also ensure consistency with National Standard 7, which requires that conservation and management measures shall, where practicable, minimize costs and avoid unnecessary duplication. Prior to the implementation of the ACFCMA, interstate plans lacked effective compliance authority and states relied upon Federal regulations under the Magnuson Act to provide cohesiveness and compliance. This is no longer a problem, because the ACFCMA, as recently amended, now provides a mechanism for state compliance to coastal management plans implemented by the ASMFC and, therefore, is a more appropriate vehicle to support the effective implementation of these plans. As a result, in some instances where a coastal plan exists or is proposed, the Magnuson Act may be an unnecessary duplication.

Withdrawal of the FMP, provided that complementary Federal regulations are issued by NMFS under the ACFCMA, is consistent with the formal comments submitted by the ASMFC during the comment period on the ANPR. During the comment period, the ASMFC requested a status quo approach until the states, through ASMFC, determine where lobster management should go from here by amending its CMP for American lobster. The Maine Department of Marine Resources commented that management of lobster should transfer from the Council to the ASMFC immediately. The Connecticut Department of Environmental Protection requested that the FMP remain in place to allow the ASMFC time to develop its CMP. Timely withdrawal of this FMP and replacement by a state-administered CMP is consistent with the requests of these agencies.

Therefore, NMFS is publishing this proposed rule stating its intent to withdraw the FMP and remove its implementing regulations. Final action would be contingent upon appropriate action by the ASMFC that would allow NMFS to issue effective Federal regulations under the ACFCMA, as necessary.

Timing the withdrawal to coincide with implementation of an ASMFC CMP is necessary, because a lapse in the Federal regulations would suspend conservation measures in the EEZ. For instance, the Federal minimum size limit, the protective measures for egg-bearing lobsters, and the limited access permit program would lapse, jeopardizing conservation and canceling roughly 3,000 Federal limited access moratorium permits. The administrative and resource costs that would result from a lapse in the regulations would exceed the benefits of this action.

Amendment 5 to the FMP was approved on the basis that it established a participative process to reduce effort and prevent overfishing. As stated in the ANPR, NMFS supports the EMT concept and the prevention of overfishing objective of Amendment 5 and expects that the state management plan initiative will be guided by the national standards and guidelines to ensure effective conservation and management of the American lobster resource.

Classification

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

At this time, the Assistant Administrator for Fisheries (AA) has not determined that the action this rule would implement is consistent with the national standards, other provisions of the Magnuson Act, and other applicable law. The AA, in making that determination, will take into account the data, views, and comments received during the comment period.

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

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. As a result, a regulatory flexibility analysis was not prepared. This rule has no direct effect on the stock of lobster or the lobster fishery, since the management measures that would be removed via this action are expected to be implemented under the ACFCMA before withdrawal is complete. If NMFS intends to alter, add, or eliminate any regulations implemented under the FMP under the authority of the ACFCMA, an initial regulatory flexibility analysis will be done for those specific regulations at that time.

This rule does not contain a collection-of-information requirement for the purposes of the Paperwork Reduction Act.

This proposed rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under E.O. 12612.

List of Subjects in 50 CFR Part 649

Fisheries.

Dated: March 20, 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.*, part 649 is proposed to be removed.

[FR Doc. 96–7319 Filed 3–26–96; 8:45 am]

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