of the rule that are not the subject of an adverse comment.

DATES: Comments must be received in writing on or before September 27, 2002.

ADDRESSES: Written comments may be mailed to Richard R. Long, Director, Air and Radiation Program, Mailcode 8P–AR, Environmental Protection Agency (EPA), Region 8, 999 18th Street, Suite 300, Denver, Colorado, 80202. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air and Radiation Program, Environmental Protection Agency, Region 8, 999 18th Street, Suite 300, Denver, Colorado, 80202. Copies of the State documents relevant to this action are available for public inspection at the Montana Department of Environmental Quality, Air and Waste Management Bureau, 1520 E. 6th Avenue, Helena, Montana 59620.

FOR FURTHER INFORMATION CONTACT: Laurel Dygowski, EPA, Region 8, (303) 312–6144.

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final action of the same title which is located in the Rules and Regulations section of this **Federal Register**.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: August 13, 2002.

Robert E. Roberts,

Regional Administrator, Region 8.

[FR Doc. 02–21945 Filed 8–27–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 70

[MO 161–1161; FRL–7269–1]

Approval and Promulgation of Implementation Plans and Operating Permits Program; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed action.

SUMMARY: EPA proposes to approve a revision to the Missouri State Implementation Plan (SIP) and Operating Permits Program. This revision pertains to the state's part 70 operating permits rule. Approval of this revision will ensure consistency between the state and Federally-approved rules, and ensure Federal enforceability of the state's air program rule revision.

In the final rules section of the **Federal Register**, EPA is approving the state's submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no relevant adverse comments to this action. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action, no further activity is contemplated in relation to this action. If EPA receives relevant adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed action. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments on this proposed action must be received in writing by September 27, 2002.

ADDRESSES: Comments may be mailed to Wayne Kaiser, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

FOR FURTHER INFORMATION CONTACT: Wayne Kaiser at (913) 551–7603.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final rule which is located in the rules section of the **Federal Register**.

Dated: August 14, 2002.

James B. Gulliford,

Regional Administrator, Region 7.

[FR Doc. 02–21943 Filed 8–27–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–7269–7]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of intent to delete the Pinette's Salvage Yard Superfund Site from the National Priorities List.

SUMMARY: EPA-New England announces the intent to delete the Pinette's Salvage Yard Superfund Site (Site or Pinette's Site), located in Washburn Maine, from the National Priorities List (NPL) and requests public comment on this proposed action.

The NPL constitutes appendix B of 40 CFR part 300, which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA). EPA and the State of Maine, through the Department of Environmental Protection, have determined that all appropriate response actions under CERCLA have been completed. However, this decision does not preclude future actions under Superfund.

DATES: Comments concerning the proposed deletion of this Site from the NPL may be submitted on or before September 27, 2002.

ADDRESSES: Comments may be mailed to Almerinda Silva, Remedial Project Manager, U.S. Environmental Protection Agency-New England, One Congress Street, Suite 1100 (HBT), Boston, Massachusetts 02114–2023, (617) 918–1246, Fax (617) 918–1291, e-mail: *silva.almerinda@epa.gov*.

Information Repositories: Comprehensive information about the Site is available for viewing and copying at the Site information repositories located at: U.S. Environmental Protection Agency-New England Records Center, One Congress Street, Suite 1100 (HBS), Boston, Massachusetts 02114–2023, (617) 918–1440 or 1–800–252–3402-toll-free, Monday through Friday—9 a.m. to 5 p.m.; and Site Repository—Washburn Town Hall, Main Street, Washburn Town Hall, Main Street, Washburn, ME 04786, telephone (207) 455–8485.

FOR FURTHER INFORMATION CONTACT: Almerinda Silva, Remedial Project Manager, U.S. Environmental Protection Agency, One Congress Street, Suite 1100 (HBT), Boston, Massachusetts 02114–2023, (617) 918–1246, Fax (617) 918–1291, e-mail: *silva.almerinda@epa.gov*.

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. NPL Deletion Criteria
III. Deletion Procedures
IV. Basis for Site Deletion

I. Introduction

EPA-New England announces its intent to delete the Pinette's Salvage Yard Superfund Site in Washburn Maine, county of Aroostook, from the National Priorities List (NPL) and requests public comment on this proposed action. The NPL constitutes appendix B of 40 CFR part 300 which is the Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation

and Liability Act (CERCLA) of 1980, as amended. EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and maintains the NPL as the list of these sites. EPA and the State of Maine, through the Department of Environmental Protection, have determined that the remedial action for the Site has been completed. However, this deletion does not preclude future actions under Superfund.

EPA will accept comments on the proposal to delete this Site for thirty (30) days after publication of this documentation in the **Federal Register**.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses the procedures EPA is using for this action. Section IV discusses the Pinette's Salvage Yard Site and explains how the Site meets the deletion criteria.

II. NPL Deletion Criteria

Section 300.425(e) of the NCP provides that a release may be deleted from the NPL where no further response is appropriate. In making a determination to delete a release from the NPL, EPA shall consider, in consultation with the State, whether any of the following criteria has been met:

(i) Responsible parties or other persons have implemented all appropriate response actions required;

(ii) All appropriate Fund-financed (Hazardous Substance Superfund Response Trust Fund) response under CERCLA has been implemented, and no further response action by responsible parties is appropriate; or

(iii) The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, taking of remedial measures is not appropriate.

Even if a site is deleted from the NPL, where hazardous substances, pollutants, or contaminants remain at the deleted site above levels that allow for unlimited use and unrestricted exposure, EPA's policy is that a subsequent review of the site will be conducted at least every five years after the initiation of the remedial action at the deleted site to ensure that the action remains protective of public health and the environment. In the case of the Pinette's Site, Five-Year Reviews will be performed since trace levels of hazardous substances (PCBs) remain in groundwater at the Site. If new information becomes available which indicates a need for further action, EPA may initiate remedial actions. Whenever there is a significant release from a site deleted from the NPL, the deleted site may be restored to the NPL without the application of the hazard ranking system.

III. Deletion Procedures

The following procedures were used for the intended deletion of the Site:

(1) All appropriate response under CERCLA has been implemented.

(2) The State of Maine has concurred with proposed deletion decision.

(3) Concurrently with this publication a notice has been published in the local newspapers and has been distributed to the appropriate federal, state, and local officials and interested parties announcing the commencement of a 30-day public comment period on EPA's Notice of Intent to Delete.

(4) All relevant documents have been made available in the local Site information repositories.

Deletion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. Deletion of a site from the NPL does not in any way alter EPA's right to take enforcement actions, as appropriate. The NPL is designed primarily for informational purposes and to assist EPA management. Section 300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility for future response actions, should future conditions warrant such actions.

For deletion of this Site, EPA's Regional Office will accept and evaluate public comments on EPA's Notice of Intent to Delete before making a final decision to delete. If necessary, the Agency will prepare a Responsiveness Summary to address any significant public comments received.

A deletion occurs when the Regional Administrator places a final notice in the **Federal Register**. Generally, the NPL will reflect deletions in the final update following the Notice. Public notices and copies of the Responsiveness Summary will be made available to local residents by the Regional Office.

IV. Basis for Site Deletion

The following information provides EPA's rationale for deleting the Site from the NPL:

Site Location

The Pinette's Salvage Yard Superfund Site is located on Gardner Creek Road (a.k.a. Wade Road) approximately one mile southwest of the Town of Washburn, Aroostook County, Maine, in the northeastern corner of the State. The Site is located in a rural farming area. A portion of the Site has been used as vehicle repair and salvage yard. This portion of the Site is situated within the parcel of land, currently owned by Roger and Cynthia Pinette (granted with warranty covenants as joint tenants), which consists of approximately 9.45 acres.

Site History

In June 1979, three electrical transformers from Loring Air Force Base located near Limestone, Maine, were removed from the base under a written agreement with a private electrical contractor. Allegedly, the transformers were brought to Pinette's Site where they apparently ruptured while being removed from the delivery vehicle. Approximately 900 to 1,000 gallons of dielectric fluid containing polychlorinated biphenyls (PCBs) spilled directly onto the ground.

In April 1980, Maine DEP determined that the Site was contaminated with PCBs and associated volatile organic contaminants (VOCs). Additional sampling by Maine DEP in August 1981 and EPA in May 1982 confirmed the presence of PCB contamination at the Site. In December 1982, the Site was placed on the National Priorities List (NPL).

On October 4, 1983, EPA authorized an Immediate Removal Action (IRA) for the Pinette's Site. Approximately 1,050 tons (800 cu.yds.) of PCB-contaminated soil and assorted debris were removed for disposal during the period from October 4 to November 4, 1983. The IRA was performed to excavate those soils grossly contaminated by PCBs (*i.e.*, soils containing 50 parts per million (50 ppm) or greater of PCBs, as determined by on-site analysis). Those soils that were excavated were then transported to the Model City, New York secure hazardous waste landfill facility.

In 1985, a Deletion Remedial Investigation (DRI) was initiated at the Pinette's Site to determine if any residual PCB contamination existed and whether this residual contamination was reduced sufficiently to warrant the deletion of the Site from the (NPL). This investigation resulted in the determination by EPA, in consultation with Maine DEP, that the Site was not suitable for deletion from the NPL. The results of the DRI were released to the public in October 1987. The DRI revealed additional contamination and thus triggered a need for additional studies.

Remedial Investigation and Feasibility Study (RI/FS)

Based on the levels of residual PCB contamination discovered during the DRI, and in consultation with Maine DEP, EPA determined that a Supplemental Remedial Investigation (SRI) was warranted at the Pinette's Site.

The Supplemental RI was performed using a two-phased approach. Phase I and Phase II field investigations were conducted to address any outstanding data requirements and objectives, so that the data would be of sufficient quality and quantity to support the preparation of a Feasibility Study (FS). The Phase I field investigations were performed from September 1987 through November 1987. Phase II field activities were completed in November 1988. The Final Supplemental Remedial Investigation and Public Health Evaluation Report (Ebasco, 1989a), and the Draft Final Feasibility Study Report (Ebasco, 1989b) were distributed for public comment in March 1989.

Elevated concentrations of PCBs were detected in surface and subsurface soils at the Site. Detectable concentrations of PCBs, benzene, chlorobenzene, 1,4-dichlorobenzene, 1,2,4-trichlorobenzene, and chloromethane were also identified within both the shallow and deep till aquifers at the Site (Ebasco, 1989a). These detectable groundwater concentrations of organic chemicals were found to be localized within and slightly downgradient of the spill area (in the vicinity of well cluster 5), but north of Gardner Creek Road. No detectable concentrations of PCBs were identified in filtered samples obtained at the Site, although PCBs were detected in unfiltered samples. The distribution of PCBs detected in the groundwater was limited only to the general spill area.

Record of Decision Findings

On May 30, 1989, the EPA signed a Record of Decision (ROD) for the Pinette's Salvage Yard Superfund Site. The cleanup approach, selected in the ROD, for the Site included two primary components: Source Control and Management of Migration.

The Source Control component (as amended in June 1993) has been completed. The Source Control component of the 1989 ROD originally called for on-site solvent extraction treatment and off-site incineration of contaminated soils, but was amended in 1993 for off-site land disposal and off-site incineration. Solvent extraction technologies proved ineffective in efficiently extracting PCBs from site soils.

The 1993 ROD Amendment recognized the infeasibility of solvent extraction to remediate soils within the required time frames. A new approach was developed which involved the off-site disposal of soil contaminated with 5 ppm ≤PCBs <500 ppm in a secure Toxic Substances Control Act (TSCA)—permitted landfill, and the incineration of soil contaminated with PCBs ≥500 ppm at a TSCA-permitted off-site facility.

The Management of Migration (MOM) component of the 1989 ROD required that contaminated groundwater containing concentrations above specified target cleanup goals be extracted from the ground and treated on-site using filtration and carbon adsorption. The 1989 ROD required active groundwater treatment to reduce the concentration of VOCs to their cleanup goals as a means of reducing the migration of PCBs.

The Management of Migration portion of the selected remedial action was designed primarily to provide adequate protectiveness to human health from effects associated with potential future use of on-site groundwater, if left untreated. This was and is especially important since residents living in the immediate vicinity of the Site use residential well water as a potable drinking water source and no municipal water supply system currently serves these residents. Additionally, the continued presence and/or migration of the other organic contaminants in the on-site groundwater could potentially mobilize the relatively immobile particulate-bound PCBs also present in the groundwater.

In 1996, EPA issued an Explanation of Significant Differences (ESD) for groundwater at the Site indicating that monitoring results subsequently demonstrated that the primary objective of the Management of Migration component of the ROD (to reduce the migration of PCBs) was achieved without the need for active treatment. Thus, the ESD concluded that there was no need to actively treat the groundwater and that institutional controls should be established on-site to prevent the installation of domestic wells.

Characterization of Risk

The risk assessment performed as part of the RI for existing and future use scenarios determined that unacceptable risks existed from exposure to PCBs in soils and PCBs, VOCs, and lead in groundwater. The primary exposure pathways for both existing and future land use (residential) that showed unacceptable risk included: ingestion and dermal contact with PCBs in soils and ingestion of PCBs, VOCs and lead in groundwater.

Response Actions

The 1989 ROD identified response actions for site soils and groundwater.

Soils

In August 1989, EPA issued the remedial design work assignment to its fund lead contractor, Ebasco Services Incorporated. The remedial design was complete and submitted to EPA in June 1990. EPA awarded the remedial action contract in July 1990 to Ebasco Services Incorporated, who then awarded Stevenson Environmental Services, Inc. a remedial action subcontract in October 1990.

On-site activities (specifically the initial excavation of the contaminated soil) began in July 1991. EPA's original approach for cleaning up contaminated soil at the Site consisted of the use of a solvent extraction system. The solvent extraction company initially hired to treat the Pinette's Site soil committed to deliver a fully fabricated unit to the Site. By the end of 1991, the company had still not delivered the necessary equipment. A second company was hired to install an alternate solvent extraction technology unit in April 1992 and a solvent extraction unit was delivered to the Site in June of 1992. Numerous mechanical and process problems ensued. By November 1992, only 56 cubic yards of soil contaminated with 5 ppm ≤ PCBs < 50 ppm had been treated to meet the objectives of the ROD. Of these 56 cubic yards, 42 cubic yards contained high levels of residual solvent. These soils required additional measures to reduce the solvent levels to acceptable levels for replacement in the ground. Work had progressed in other areas of the remediation during 1992. Approximately 281 cubic yards of soil contaminated with PCBs ≥ 50 ppm was excavated and incinerated and 440,000 gallons of contaminated groundwater was treated.

As previously noted, the 1993 ROD Amendment recognized the infeasibility of solvent extraction within the required time frames. A new approach was developed which involved the disposal of soil contaminated with 5 ppm ≤PCBs < 500 ppm in a secure TSA-permitted landfill, and the incineration of soil contaminated with PCBs ≥500 ppm at a TSA-permitted off-site facility. Soil remediation at the Site was continued during 1993 and completed in early 1994 using excavation and off-site disposal. On September 1994, a Remedial Action Report was submitted signifying successful completion of construction activities.

At the time of completion of the Source Control remedy, the concrete pad used for staging response activities was left at the Site. Supplemental PCB sampling of the concrete pad was conducted in June 2001. Risk

assessment evaluation of the sampling results confirmed that the pad poses no significant risks at the Site.

Groundwater

The Remedial Design for the Pinette's Site established performance standards for contaminated groundwater treatment based on the State of Maine, Bureau of Health Maximum Exposure Guidelines for drinking water. In order to meet these standards, during Source Control remediation work, the open excavation site was dewatered and the water was treated by flocculation, precipitation of suspended solids, filtration, and carbon adsorption.

Groundwater sampling data collected during the MOM Pre-design studies (1993, 1994 and 1995) following the completion of the Source Control remedy indicated that the concentrations of VOCs had decreased to below or near the cleanup level established in the 1989 ROD. Decreases in VOC levels were attributable to the natural attenuation/degradation of contaminants, to the extraction and treatment of over one million gallons of contaminated groundwater during Source Control remedial activities, and to improved groundwater sampling techniques.

The 1989 ROD required active groundwater treatment to reduce the concentration of VOCs to their ROD cleanup levels as a means of reducing the migration of PCBs. The Pre-design monitoring results demonstrated that the primary objective of the Management of Migration component of the ROD had been achieved—PCB migration had been sufficiently reduced. The concentrations of VOCs were already below their cleanup levels. Furthermore, the migration of PCBs was sufficiently reduced; downgradient wells had not shown any contamination. Consequently, the ESD issued in 1996, determined that there was no need to actively treat the groundwater.

The ESD also noted, that in monitoring wells, the maximum concentration of lead detected in unfiltered samples since EPA began using low flow sampling in 1995 was 14.5 ppb, below the cleanup level (as amended by the ESD) of 15 ppb. Also as indicated in the ESD, the maximum concentration of PCBs in unfiltered monitoring well samples detected since the low flow sampling began was 8.5 ppb, which was still above the ROD cleanup level of 0.5 ppb. VOCs for which ROD cleanup levels had been established for the Site were not detected in unfiltered samples above cleanup levels since low flow sampling began.

The ESD recognized that despite the noted improvements, groundwater at the Pinette's Site still contained concentrations of PCB contaminants which would pose an unacceptable risk if ingested. Therefore, to prevent the ingestion and use of contaminated groundwater, the ESD indicated that institutional controls (*e.g.*, deed restrictions and/or easements) would be established to prevent the installation of domestic wells on the Site. In January 2002, a modeling effort was performed to evaluate potential future PCB migration in groundwater at the Pinette's Site. Results of this modeling effort supported the appropriateness of the institutional controls which have been implemented at the Site. Institutional controls in the form of a declaration of restrictive covenant was established to prevent the installation of domestic wells within the restricted area.

Finally, the ESD required that Five-Year Reviews of the Site be conducted to ensure that the remedy remained protective, so long as hazardous substances, pollutants or contaminants remain at the Site above levels that allow for unlimited use and unrestricted exposure. At a minimum, groundwater samples will continue to be collected from the monitoring well network to support these Five-Year Reviews.

Cleanup Standards

Remedial action cleanup activities at the Site were consistent with the NCP, the ROD, the ROD Amendment, and the ESD, and in conjunction with institutional controls for groundwater use, provides protection to human health and the environment. Remedial Action plans for all phases of construction included appropriate quality assurance plans and incorporated all EPA and State quality assurance and quality control procedures and protocols (where necessary). All procedures and protocols were followed for soil, sediment, water and air sampling during the Remedial Action. EPA analytical methods were used for the confirmatory and monitoring samples during all Remedial Action activities. Appropriate EPA analytical methods were also used for all Pre-Design and Post-ESD groundwater monitoring at the Site. EPA has determined that the analytical results, having been validated, are accurate to the degree needed to assure satisfactory execution of the Remedial Action, and confirm the findings of the groundwater monitoring programs. These results show that the cleanup standards for PCBs in soils have been met, and are consistent with the ROD, ROD Amendment, and ESD and also Remedial Design plans and specifications. PCBs do remain in groundwater above the ROD cleanup level.

Operation and Maintenance

Soils at the Pinette's Site have been cleaned up under the Source Control remedy, in accordance with the ROD and its Amendment. There will be no need for operation and maintenance activities for Source Control at the Site.

There is no ongoing groundwater treatment at the Site, and no associated O&M requirements. However, as required by the ESD, institutional controls have been implemented at the Site to restrict groundwater use. Also as required by the ESD, Five-Year Reviews will be performed at the Site. Groundwater monitoring will be performed at the Site, as necessary to support these reviews.

With respect to the Management of Migration remedy, the State will be responsible for enforcing the terms of the declaration of restrictive covenant. Enforcing this declaration of restrictive covenant shall constitute the operation and maintenance of this portion of the remedy.

Five-Year Review

PCBs remain in groundwater at certain locations at the Pinette's Site, at concentrations that pose an unacceptable risk to human health if ingested. Pursuant to the ESD, institutional controls have been implemented to restrict groundwater use. In conjunction with institutional controls, the ESD also required the performance of Five-Year Reviews. Therefore, pursuant to CERCLA section 121(c) and as provided in OSWER Directive 9355.7–03 B–P, June 2001, Five-Year Reviews will be necessary, so long as hazardous substances, pollutants or contaminants remain at the Site above levels that allow for unlimited use and unrestricted exposure.

Community Involvement

Public participation activities have been satisfied as required in CERCLA section 113(k), 42 U.S.C. 9613(k), and CERCLA section 117, 42 U.S.C. 9617. Documents in the deletion docket which EPA relied on for recommendation of the deletion from the NPL are available to the public in the information repositories.

Informational public meetings were held near the Site to keep local residents informed of response activities. The first meeting was held in March 1989 prior

to issuance of the original ROD. Representatives from EPA and Maine DEP were present. A public hearing was also held in April 1989. Subsequently, EPA held an informational meeting in March 1993 at the time of issuance of the amended ROD for the Site. In accordance with section 117(d) of CERCLA, the ESD became part of the Administrative Record which is available for public review at both EPA-New England Record Center in Boston, Massachusetts and the Washburn Town Hall in Washburn Maine.

Applicable Deletion Action

One of the three criteria for site deletion specifies that EPA may delete a site from the NPL if ''all appropriate Fund-financed response under CERCLA has been implemented, and no further response action by responsible parties is appropriate.'' 40 CFR 300.425(e)(1)(ii). EPA, with the concurrence of the State of Maine, through the Department of Environmental Protection, believes that this criterion for deletion has been met. Subsequently, EPA is proposing deletion of this site from the NPL. Documents supporting this action are available from the docket.

State Concurrence

In a letter dated July 15, 2002, the Maine Department of Environmental Protection concurs with the proposed deletion of the Pinette's Salvage Yard Superfund Site from the NPL.

Dated: August 22, 2002.

Robert W. Varney,

Regional Administrator, U.S. EPA-New England.

[FR Doc. 02–22080 Filed 8–27–02; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 020726183–2183–01; I.D. 071702F]

RIN: 0648–AQ12

Fisheries of the Northeastern United States; Management of the Atlantic Hagfish Fishery

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

ACTION: Notice of denial of petition for rulemaking; advance notice of proposed rulemaking to establish a control date for the hagfish fishery; request for comments.

SUMMARY: NMFS announces its decision to deny the rulemaking requested in a Petition for Rulemaking submitted by Mr. William R. Palombo, Nippert Fishing Corporation (Petitioner). On January 18, 2002, the Petitioner submitted a Petition requesting that NMFS immediately implement emergency measures to limit entry into the Atlantic hagfish fishery. At present, the Atlantic hagfish fishery is not regulated under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

NMFS also announces that it is considering, and is seeking public comment on, proposed rulemaking to control future access to the hagfish (*Myxine glutinosa*) resource should a management regime be developed and implemented under the Magnuson-Stevens Act that would limit the number of participants in the fishery. This announcement is also intended, in part, to promote awareness of potential eligibility criteria for future access and to discourage speculative entry into the fishery while the New England Fishery Management Council (Council) and NMFS consider whether to control access to the hagfish fishery and, if they decide in favor of controlling access to the hagfish fishery, which methods should be used.

DATES: The date of publication of this notification, August 28, 2002 will be known as the ''control date'' and may be used for establishing eligibility criteria for determining levels of future access to the hagfish fishery subject to Federal authority. Comments on the notice of a control date must be received by 5 p.m. EST September 27, 2002. Comments will not be accepted via email.

ADDRESSES: Comments should be directed to Patricia A. Kurkul, Regional Administrator, National Marine Fisheries Service, 1 Blackburn Drive, Gloucester, MA 01930. The envelope should be marked ''Hagfish Control Date Comments.''

FOR FURTHER INFORMATION CONTACT: Myles Raizin, Fishery Policy Analyst, (978) 281–9104, fax (978) 281–9135, e-mail Myles.A.Raizin@Noaa.gov.

SUPPLEMENTARY INFORMATION:

Finding on Petition for Rulemaking

On April 5, 2002, NMFS published a Notice of Receipt of Petition for Rulemaking requesting public comment on a Petition for Rulemaking submitted by the Petitioner (67 FR 16362). NMFS also solicited information on Atlantic hagfish biology and ecology. The Petitioner had requested that NMFS immediately implement emergency measures to limit entry into the Atlantic hagfish fishery. A full discussion of the Petitioner's request is included in the preamble to the Notice of Receipt of Petition for Rulemaking and is not repeated here.

Comments and Responses

Four comment letters were received during the comment period for this action, which ended on May 6, 2002. Three commentors favored the petition. One was from the original petitioner, who restated the points made in his Petition. The other two in favor were from an Atlantic hagfish vessel owner and from one group of scientists from the Shoals Marine Laboratory who have studied Atlantic hagfish. One opposing comment was received from an Atlantic hagfish processor.

Comment 1: The scientists who commented noted that published scientific studies suggest that Atlantic hagfish are likely vulnerable to overfishing since reproductive capacity of hagfish is extremely limited. They note that females of reproductive age produce a single crop of 10 to 20 eggs, at most, once per year. They also note that there is high mortality of discarded Atlantic hagfish because animals die from thermal and salinity shock in surface water. They note they have sampled the same research site since 1987 and believe their findings indicate the area was quickly depleted after it was targeted by Atlantic hagfish vessels in 1996.

Response: NMFS recognizes that there are valid reasons for a management program to be initiated for Atlantic hagfish. However, there is insufficient data available to conclude that the status of the Atlantic hagfish resource merits emergency action by the Secretary of Commerce. NMFS is publishing a control date to discourage speculative entry to the fishery and will urge the Council to develop a fishery management plan. The New England Fisheries Science Center, NMFS, will conduct a Stock Assessment Review Committee (SARC) for Atlantic hagfish in June, 2003. The SARC will be tasked with determining stock size and abundance and estimating biological reference points. This information can be used by the Council to develop management measures.

Comment 2: An Atlantic hagfish processor notes that in order to redirect fishing effort off of intensively fished traditional Atlantic hagfish grounds and obtain better quality product, he has relied on larger vessels that can transit further to other fishing grounds this