

ACTION: Final rule.

SUMMARY: NMFS amends the Code of Federal Regulations (CFR) to remove regulations that are no longer needed. This action is consistent with the President's Regulatory Reform Initiative.

EFFECTIVE DATE: August 2, 1995.

FOR FURTHER INFORMATION CONTACT: George H. Darcy, NMFS, 301/713-2344.

SUPPLEMENTARY INFORMATION:

On March 4, 1995, as part of the President's Regulatory Reform Initiative, the President directed agencies to conduct a page-by-page review of all regulations and eliminate or revise those that are outdated or otherwise in need of reform. After conducting a review of 50 CFR parts 210, 216 (subparts G and H), 250, 270, and 604, it was determined that they were not needed and could be removed.

50 CFR Part 210

Part 210 contains regulations that were promulgated under the North Pacific Fisheries Act of 1954, which implemented the International Convention for the High Seas Fisheries of the North Pacific Ocean. After that convention was replaced by the Convention for the Conservation of Anadromous Stocks in the North Pacific Ocean, the 1954 statute was repealed by Public Law 102-567. Thus, part 210 is without statutory basis and is being removed.

50 CFR Part 216, Subparts G and H

Sections 101(a)(2), 101(a)(3)(A), and 101(b) of the Marine Mammal Protection Act (MMPA) (16 U.S.C. 1371(a)(2), 1371(a)(3)(A), and 1371(b)) authorize the Assistant Administrator for Fisheries, NOAA (AA) to (1) issue regulations governing the taking of marine mammals incidental to commercial fishing operations; (2) waive section 101's moratorium on the taking and importing of marine mammals under the AA's jurisdiction, and adopt regulations with respect to the taking and importing of such mammals; and (3) prescribe regulations governing the taking of depleted marine mammals by any Indian, Aleut, or Eskimo, respectively. In prescribing regulations to carry out the provisions of these sections, section 101 requires that the procedures of section 103 (16 U.S.C. 1373) be followed. Section 103(d) requires that regulations be made on the record after opportunity for an agency hearing on such regulations and on any determination by the AA to waive the

moratorium pursuant to section 101(a)(3)(A) (16 U.S.C. 1371(a)(3)(A)).

On March 5, 1975 (40 FR 10183), NMFS issued rules of practice and procedure for all hearings conducted pursuant to section 103(d). Subpart G of part 216 contains these rules. Since that time, MMPA 103(d) hearings have been held for only six rulemaking proceedings. As a result of amendments to the MMPA in 1984, 1991, and 1994, it is unlikely that section 103(d) hearings will be conducted in the foreseeable future. If section 103(d) rules of practice and procedure are needed in the future, NMFS will provide parties and the presiding Administrative Law Judge with proposed guidance for conducting the proceeding. As part of the pre-hearing conference, the participants will determine the process for conducting the hearing. Subpart H of part 216 contains only a reference note that is no longer needed. Because part 216 subparts G and H are no longer necessary, they are being removed.

50 CFR Part 250

Part 250 of title 50 CFR contains regulations that implemented section 4 of the Fish and Wildlife Act of 1956 (16 U.S.C. 742c), which established a Fisheries Loan Fund (Fund). Under that Act, the Fund ceased to exist on September 30, 1986, and any balance remaining in the Fund was transferred to the Treasury as miscellaneous receipts. Thus, part 250 is no longer needed and is being removed.

50 CFR Part 270

Part 270 of title 50 CFR governs the establishment and conduct of Fish and Seafood Promotional Councils (Councils) under the authority of the Fish and Seafood Promotion Act of 1986. That Act authorized the establishment of a National Council to carry out generic marketing programs, including consumer education and research. Congress funded the National Council, but did not fund the Regional Councils. Funding for the National Council expired in fiscal year 1991; no Regional Councils have been established by the industry, and NMFS is unaware of any plans to do so. Therefore, part 270 is no longer needed and is being removed.

50 CFR Part 604

Part 604 of title 50 CFR contains abbreviated summaries of laws, other than the Magnuson Fishery Conservation and Management Act, that

are applicable to the development of fishery management plans. The information in part 604 is readily available to the public elsewhere, and its maintenance in part 604 is not needed. Therefore, part 604 is being removed.

Classification

Because this rule only removes regulations that are no longer necessary, no useful purpose would be served by providing prior notice and opportunity for public comment on this rule. Accordingly, under 5 U.S.C. 553(b)(B), the AA, for good cause, finds that it is unnecessary to provide prior notice and an opportunity for public comment for this rule. Also, because this rule only removes regulations that are no longer needed, the AA, for good cause, finds that no useful purpose would be served by delaying the rule's effective date for 30 days. Therefore, this rule is made effective upon publication.

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

List of Subjects

50 CFR Part 210

Fisheries.

50 CFR Part 216

Administrative Practice and procedure, Imports, Indians, Marine Mammals, Penalties, Reporting and recordkeeping requirements, Transportation.

50 CFR Part 250

Fisheries, Fishing vessels, Loan programs-business, Reporting and recordkeeping requirements.

50 CFR Part 270

Administrative practice and procedure, Fisheries, Reporting and recordkeeping requirements, Seafood.

50 CFR Part 604

Administrative practice and procedure, Fisheries, Fishing.

Dated: July 26, 1995.

Richard H. Schaefer,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 210; part 216, subparts G (consisting of §§ 216.70-216.90) and H (Note); and parts 250, 270, and 604 are removed; and subchapter H is vacated.

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