

## X. Authority

We publish this notice under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: March 30, 2012.

**Margaret T. Kolar,**

*Acting Regional Director, Pacific Southwest Region, U.S. Fish and Wildlife Service.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 640

RIN 0648-BB44

#### Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Spiny Lobster Fishery of the Gulf of Mexico and South Atlantic; Amendment 11

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

**ACTION:** Notice of availability; request for comments.

**SUMMARY:** NMFS announces that the Gulf of Mexico and South Atlantic Fishery Management Councils (Councils) have submitted Amendment 11 to the Fishery Management Plan for the Spiny Lobster Fishery of the Gulf of Mexico and South Atlantic (FMP) for review, approval, and implementation by NMFS. Amendment 11 proposes to limit spiny lobster fishing using trap gear in certain areas in the exclusive economic zone off the Florida Keys to protect threatened species of corals.

**DATES:** Written comments must be received on or before June 26, 2012.

**ADDRESSES:** You may submit comments on the amendment identified by "NOAA-NMFS-2011-0223" by any of the following methods:

- **Electronic submissions:** Submit electronic comments via the Federal e-Rulemaking Portal: <http://www.regulations.gov>. Follow the "Instructions" for submitting comments.

- **Mail:** Susan Gerhart, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

**Instructions:** All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not

submit Confidential Business Information or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter N/A in the required field if you wish to remain anonymous).

To submit comments through the Federal e-Rulemaking Portal: <http://www.regulations.gov>, enter "NOAA-NMFS-2011-0223" in the search field and click on "search." After you locate the document "Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Spiny Lobster Fishery of the Gulf of Mexico and South Atlantic; Amendment 11," click the "Submit a Comment" link in that row. This will display the comment web form. You can then enter your submitter information (unless you prefer to remain anonymous), and type your comment on the web form. You can also attach additional files (up to 10MB) in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

Comments received through means not specified in this notice will not be considered.

For further assistance with submitting a comment, see the "Commenting" section at <http://www.regulations.gov/#!faq> or the Help section at <http://www.regulations.gov>.

Electronic copies of Amendment 11 may be obtained from the Southeast Regional Office Web site at <http://sero.nmfs.noaa.gov>.

**FOR FURTHER INFORMATION CONTACT:**

Susan Gerhart, telephone: 727-824-5305, or email: [Susan.Gerhart@noaa.gov](mailto:Susan.Gerhart@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The spiny lobster fishery of the Gulf of Mexico (Gulf) and the South Atlantic is managed under the FMP. The FMP was prepared by the Councils and implemented through regulations at 50 CFR parts 622 and 640 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

### Background

As required under the Endangered Species Act (ESA), NMFS completed a formal consultation, and resulting biological opinion, on the continued authorization of the Gulf of Mexico and South Atlantic spiny lobster fishery in 2009 (<http://sero.nmfs.noaa.gov/pr/esa/Fishery%20Biops/Final%20SL%20BO.pdf>). The biological opinion contained specific terms and conditions required to implement the prescribed reasonable and prudent measures (RPMs), including creation of new or expansion of existing closed areas to protect coral and implementation of trap

line-marking requirements. These actions were originally included in Amendment 10 to the FMP; however, the Councils chose to take no action in Amendment 10 to the FMP to allow for additional stakeholder input into the development of any potential areas closed to spiny lobster harvest and trap line-marking requirements.

### Actions Contained in Amendment 11

Amendment 11 considered actions to prohibit spiny lobster trap fishing in designated areas in the Florida Keys to protect threatened *Acropora* species of coral and to require markings on lobster trap lines unique to the spiny lobster fishery.

#### *Lobster Trap Gear Closed Areas*

The ESA requires analyses to determine whether, and to what extent, fishing operations impact threatened species such as threatened staghorn and elkhorn corals. The 2009 biological opinion on the spiny lobster fishery requires NMFS and the Councils to work together to protect areas of staghorn and elkhorn coral. RPMs included expansion of existing or creation of new areas closed to lobster trap fishing where colonies of these threatened coral species are present.

Staff from the Councils and NMFS worked with various stakeholders to develop the proposed lobster trap gear closed areas. Areas were chosen to protect colonies with high conservation value and areas of high coral density. Lobster trap fishing would be prohibited in the proposed closed areas. The 60 proposed closed areas would cover 5.9 mi<sup>2</sup> (15.3 km<sup>2</sup>) and are distributed throughout the Florida Keys.

#### *Spiny Lobster Trap Line Markings*

As described in Amendment 11, trap lines or rope are consistently found as marine debris and most frequently recovered without the buoys or traps still attached. These conditions cause significant difficulty for NMFS and other agencies when determining if line found in the environment, or entangling protected species, originated from the spiny lobster trap fishery. Trap line marking requirements are intended to allow greater accuracy in identifying fishery interaction impacts to benthic habitats and protected species by leading to more targeted measures to reduce the level and severity of those impacts. However, costs and labor for the spiny lobster fishery to mark their lobster trap gear could be high, with little evidence of the durability of the markings. The Florida Fish and Wildlife Conservation Commission is currently conducting a study of various methods

for marking lobster trap lines that should be completed during 2013. The Councils intend to revisit the spiny lobster trap gear marking issue when the results of that study are available. The biological opinion, as amended, requires implementation of the terms and conditions regarding lobster trap line marking by August 6, 2017.

#### Proposed Rule for Amendment 11

A proposed rule that would implement measures outlined in Amendment 11 has been drafted. In accordance with the Magnuson-Stevens Act, NMFS is evaluating the proposed rule to determine whether it is consistent with the FMP, the Magnuson-Stevens Act, and other applicable law. If that determination is affirmative, NMFS will publish the proposed rule in the **Federal Register** for public review and comment.

#### Consideration of Public Comments

The Councils submitted Amendment 11 for Secretarial review, approval, and implementation on April 05, 2012. NMFS' decision to approve, partially approve, or disapprove Amendment 11 will be based, in part, on consideration of comments, recommendations, and information received during the comment period on this notice of availability.

Public comments received on or before June 26, 2012, will be considered by NMFS in its decision to approve, partially approve, or disapprove Amendment 11. All comments received by NMFS on Amendment 11 or the proposed rule for Amendment 11 during their respective comment periods will be addressed in a final rule.

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

Dated: April 24, 2012.

#### Emily H. Menashes,

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 2012-10248 Filed 4-26-12; 8:45 am]

**BILLING CODE 3510-22-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 120417417-2417-01]

RIN 0648-BB35

#### Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Exempted Fishery for the Southern New England Skate Bait Trawl Fishery

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

**ACTION:** Proposed rule, request for comments.

**SUMMARY:** NMFS proposes to modify the regulations implementing the Northeast (NE) Multispecies Fishery Management Plan (FMP) to allow vessels issued a Federal skate permit and a Skate Bait Letter of Authorization to fish for skates in a portion of southern New England from July through October of each year, outside of the NE multispecies days-at-sea (DAS) program. This action would allow vessels to harvest skates in a manner that is consistent with the bycatch reduction objectives of the NE Multispecies FMP.

**DATES:** Comments must be received no later than 5 p.m., eastern daylight time, on May 14, 2012.

**ADDRESSES:** An environmental assessment (EA) was prepared for the Secretarial Amendment that describes the proposed action and other considered alternatives, and provides an analysis of the impacts of the proposed measures and alternatives. Copies of the Secretarial Amendment, including the EA and the Initial Regulatory Flexibility Analysis (IRFA), are available on request from Daniel Morris, Acting Regional Administrator, Northeast Regional Office, 55 Great Republic Drive, Gloucester, MA 01930. These documents are also available online at <http://www.nero.noaa.gov>.

You may submit comments, identified by FDMS docket number NOAA-NMFS-2012-0098, by any one of the following methods:

- Written comments (paper, disk, or CD-ROM) should be sent to Paul J. Howard, Executive Director, New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950. Mark the outside of the envelope, "Comments on Skate Bait Exempted Fishery."

- Comments also may be sent via facsimile (fax) to (978) 465-3116.

- Submit all electronic public comments via the Federal e-Rulemaking Portal: <http://www.regulations.gov>.

Instructions: Comments will be posted for public viewing as they are received. All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

NMFS will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

**FOR FURTHER INFORMATION CONTACT:** Travis Ford, Fishery Management Specialist, 978-281-9233; fax 978-281-9135; email: [travis.ford@noaa.gov](mailto:travis.ford@noaa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background

Current regulations, implemented under Framework Adjustment 9 (60 FR 19364, April 18, 1995) and expanded under Amendment 7 to the FMP (61 FR 27710, May 31, 1996), contain a NE multispecies fishing mortality and bycatch reduction measure that is applied to the Gulf of Maine (GOM), Georges Bank (GB), and Southern New England (SNE) Exemption Areas found in 50 CFR 648.80. A vessel may not fish in these areas unless it is fishing under a NE multispecies or a scallop DAS allocation, is fishing with exempted gear, is fishing under the Small Vessel Handgear (A or B) or Party/Charter permit restrictions, or is fishing in an exempted fishery. The procedure for adding, modifying, or deleting fisheries from the list of exempted fisheries is found in § 648.80. A fishery may be exempted by the Regional Administrator (RA), after consultation with the New England Fishery Management Council (Council), if the RA determines, based on available data or information, that the bycatch of regulated species is, or can be reduced to, less than 5 percent by weight of the total catch and that such exemption will not jeopardize the fishing mortality objectives of the FMP.

Representatives from the NE multispecies sector fleet submitted an exempted fishery request to the RA on April 1, 2011. The petitioners requested that NMFS consider an exempted