

(vii) Estimated date for completion of research, and schedule/date of subsequent reports;

(viii) Agreement that all research findings based on use of the banked tissue will be reported to the NMMTB and the MMHSRP Program Manager; and

(ix) Agreement that credit and acknowledgment will be given to NMFS, US Geologic Service (USGS), National Institute of Standards and Technology (NIST), U.S. Fish and Wildlife Service (USFWS), the NMMTB, and the collector for use of banked tissues.

(2) The applicant shall report to the MMHSRP Program Manager all research findings based on use of the banked tissue in accordance with the schedule submitted with the application.

(3) The applicant shall insert the following acknowledgment in all publications, abstracts, or presentations based on research using the banked tissue:

The specimens used in this study were provided by the National Marine Mammal Tissue Bank, which is maintained in the National Biomonitoring Specimen Bank at NIST and which is operated under the direction of NMFS with the collaboration of USGS, USFWS, and NIST through the Marine Mammal Health and Stranding Response Program [and the Alaska Marine Mammal Tissue Archival Project if the samples are from Alaska].

(4) Upon submission of a complete application, the MMHSRP Program Manager will send the request and attached study plan to the following entities which will function as the review committee:

(i) Appropriate Federal agency (NMFS or USFWS) marine mammal management office for that particular species; and

(ii) Representatives of the NMMTB Collaborating Agencies (NMFS, USFS, USGS Biological Resources Division, and NIST). If no member of the review committee is an expert in the field that is related to the proposed research activity, any member may request an outside review of the proposal, which may be outside of NMFS or USFWS but within the Federal Government.

(5) The Director, Office of Protected Resources, NMFS, will make the final decision on release of the samples based on the advice provided by the review committee and determination that the proposed use of the banked tissue specimen is consistent with the goals of the MMHSRP and the NMMTB. The Director will send a written decision to the applicant and send copies to all review committee members.

(6) The applicant will bear all shipping and homogenization costs

related to use of any specimens from the NMMTB.

(7) The applicant can keep or dispose of the tissue specimen sample consistent with the provisions of the applicant's scientific research permit after the research is completed.

(b) [Reserved]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 600 and 697

[I.D. 110402A]

Atlantic Coastal Fisheries Cooperative Management Act Provisions; Application for Exempted Fishing Permits (EFPs)

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

ACTION: Notification of a request for EFPs to harvest American lobster; request for comments.

SUMMARY: The Administrator, Northeast Region, NMFS (Regional Administrator) has made a preliminary determination that the subject EFP application contains all the required information and warrants further consideration. The Regional Administrator has also made a preliminary determination that the activities authorized under the EFP would be consistent with the goals and objectives of Federal management of the American lobster resource. However, further review and consultation may be necessary before a final determination is made to issue the EFP. Therefore, NMFS announces that the Regional Administrator proposes to issue EFPs that would allow a maximum of six vessels to conduct fishing operations that are otherwise restricted by the regulations governing the American lobster fisheries of the Northeastern United States.

The EFP involves the catching, retaining and dissecting of 200 sub-legal lobsters as part of an ongoing research project to both monitor the offshore lobster fishery and to determine the size at which offshore lobster reach reproductive maturity. The experiment would involve only one experimental trap per vessel, and a total of six vessels, for a 1-month time period in the fall of 2002 and a 1-month time period in the spring of 2003. It would not involve the authorization of any additional trap gear

in the area. The six participating commercial fishing vessels will collect detailed abundance and size frequency data on the composition of lobsters in three general offshore study areas in a collaborative effort with the University of New Hampshire (UNH) and the Atlantic Offshore Lobstermen's Association (AOLA) project on an American lobster monitoring and data collection program. Part of this research includes a size at maturity study using lobsters from each of the three study areas. One of the most reliable methods to determine size at maturity involves dissection of the female ovaries and examination of the eggs. This EFP requests that each of the six participating commercial fishing vessels utilize one modified juvenile lobster collector trap each to collect a project total of 200 sub-legal lobsters that would be collected and dissected from the three study areas to accurately determine size at maturity. Therefore, this document invites comments on the issuance of EFPs to allow six commercial fishing vessels utilize a maximum of six modified lobster traps and to collect, and retain a project total of 200 sub-legal American lobsters.

DATES: Comments on this action and application for an EFP for offshore lobster monitoring and data collection must be received on or before November 27, 2002.

ADDRESSES: Written comments should be sent to Patricia A. Kurkul, Regional Administrator, NOAA Fisheries, Northeast Regional Office, 1 Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope "Comments on Lobster EFP Proposal". Comments may also be sent via facsimile (fax) to (978) 281-9117.

FOR FURTHER INFORMATION CONTACT: Bob Ross, Fishery Management Specialist, (978) 281-9234.

SUPPLEMENTARY INFORMATION:

Background

The regulations that govern exempted fishing, at 50 CFR 600.745(b) and 697.22 allow the Regional Administrator to authorize for limited testing, public display, data collection, exploration, health and safety, environmental clean-up, and/or hazardous removal purposes, and the targeting or incidental harvest of managed species that would otherwise be prohibited. An EFP to authorize such activity may be issued, provided there is adequate opportunity for the public to comment on the EFP application, the conservation goals and objectives of Federal management of the American lobster resource are not compromised,

and issuance of the EFP is beneficial to the management of the species.

The American lobster fishery is the most valuable fishery in the northeastern United States. In 2001, approximately 74 million pounds (33,439 metric tons (mt)) of American lobster were landed with an ex-vessel value of approximately \$255 million dollars. American lobster experience very high fishing mortality rates and are overfished throughout their range, from Canada to Cape Hatteras. Although harvest and population abundance are near record levels due to high recent recruitment and favorable environmental conditions, there is significant risk of a sharp drop in abundance, and such a decline would have serious implications. Operating under the Atlantic States Marine Fisheries Commission's interstate management process, American lobster are managed in state waters under Amendment 3 to the American Lobster Interstate Fishery Management Plan (Amendment 3). In Federal waters of the Exclusive Economic Zone (EEZ), lobster is managed under Federal regulations at 50 CFR part 697. Amendment 3, and compatible Federal regulations established a framework for area management, which includes industry participation in the development of a management program which suits the needs of each lobster management area while meeting targets established in the Interstate Fisheries Management Program. The industry, through area management teams, with the support of state agencies, have played a vital role in advancing the area management program.

To facilitate the development of effective management tools, extensive monitoring and detailed abundance and size frequency data on the composition of lobsters throughout the range of the resource are necessary. One of the main tools of regulation implemented throughout the lobster fishery has been the imposition of a minimum lobster carapace size limit. The purpose of implementing a minimum carapace size is to allow females to reach sexual maturity before they can be legally landed. This minimum carapace size limit attempts to approximate the size at which 50 percent of female lobsters are mature, thereby ensuring that 50 percent of the female lobsters in the population will reproduce at least once before they are caught. Currently the minimum size is fixed at 3 1/4 inches (83 mm) carapace length for the entire offshore lobster fishery.

Proposed EFP

The proposed EFP, submitted by UNH in a collaborative effort with the AOLA and six commercial lobster fishing vessels that are also members of the AOLA, proposes to collect statistical and scientific information as part of a project designed to monitor the offshore American lobster fishery to collect data that will assist the development of management practices appropriate to the fishery. Participants in this project are funded by, and under the direction of the Northeast Consortium, a group of four research institutions (University of New Hampshire, University of Maine, Massachusetts Institute of Technology, and Woods Hole Oceanographic Institution) which are working together to foster this initiative.

Each of six commercial fishing vessels involved in this monitoring and data collection program would collect detailed abundance and size frequency data on the composition of all lobsters collected from one research string of approximately 40 lobster traps, including data on sub-legal, and egg bearing females in addition to legal lobsters. This EFP would not involve the authorization of any additional lobster trap gear in the area. Two vessels would collect data from each of three general study areas: The Southern - Hudson Canyon Area; the Middle - Veatch Canyon Area; and the Northern - Georges Bank and Gulf of Maine Area. The participating vessels may retain on deck sub-legal lobsters, and egg bearing female lobsters, in addition to legal lobsters, for the purpose of collecting the required abundance and size frequency data specified by this project. Data collected would include size, sex, shell disease index, and the total number of legal, sub-legals, berried females, and v-notched females. All berried females would be returned to the sea as quickly as possible after data collection. In addition, all sub-legals captured from the experimental 40-trap string, except the modified trap, would be returned to the sea as quickly as possible after data collection. Pursuant to 50 CFR 600.745(3)(v), the Regional Administrator may attach terms and conditions to the EFP consistent with the purpose of the exempted fishing.

Part of this research includes a size at maturity study using lobsters from each of the three study areas. Previous research on size at maturity for the offshore area was generalized and did not look at regional differences. Since research has shown large variations in size at maturity between inshore sites, one objective of the program would seek to determine if similar regional

variations exist within the offshore fishery. Previous data collected on legal sized lobsters, 3 1/4 inches (83 mm) or larger, has shown that lobsters from the Southern and Middle Study Areas were mature at the minimum size of 83 mm. One of the most reliable methods to determine size at maturity involves dissection of the female ovaries and examination of the eggs. Therefore, to determine size at maturity for the three study areas, sub-legal lobsters would be dissected, and the eggs examined to determine the stage of sexual maturity.

To complete the size at maturity component of this study, this EFP requests the inclusion of a maximum of one modified lobster trap per vessel, designated as a juvenile lobster collector trap, in the string of approximately 40 traps. This modified lobster trap would have a smaller entrance head, no escape vents and would be made of a smaller mesh than the traditional offshore trap to catch and retain a high percentage of juvenile lobsters in the 30-65 mm carapace length range. The smaller entrance head would exclude large lobsters from this trap and decrease the probability of cannibalism within the trap. The modifications to the trap are to the escape vents, and trap entrance head, not to the trap's size or configuration, therefore this modified trap would impact its environment no differently than the regular lobster trap it replaces. This EFP will add no additional traps to the areas. This EFP requests that the six participating commercial lobster fishing vessels each be allowed to use one modified juvenile lobster collector trap to collect for dissection a total of 20 lobsters (ranging in size from 65-83 mm) in each sub-legal 5-mm carapace length (CL) group from the Southern Study Area and Middle Study Area, for a total of 160 sub-legal lobsters, and 40 sub-legal lobsters (ranging in size from 75-83 mm) in the Northern Study Area. Thus, in total, 200 sub-legal lobsters would be collected and dissected as part of the size at maturity study. With the exception of the one modified juvenile lobster collector trap, all traps fished by the six participating vessels would comply with all applicable lobster regulations specified at 50 CFR 697.

All sample collections would be conducted by six federally permitted commercial fishing vessels, during the course of regular commercial fishing operations. There would not be observers or researchers onboard every participating vessel. Upon landing, UNH personnel would retrieve the samples and take them to the UNH laboratory for analysis. All lobsters would be disposed of immediately upon

completion of the size at maturity analysis.

This project, including the lobster handling protocols, was developed in consultation with NOAA Fisheries and University of New Hampshire scientists. To the greatest extent practicable, these

handling protocols are designed to avoid unnecessary adverse environmental impact on lobsters involved in this project, while achieving the data collection objectives of this project.

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

Date: November 5, 2002.

Bruce C. Morehead,

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