

Actual implementation of actions in the Plan will depend on available funding.

Comment 29: A commenter recommended the formation of a smalltooth sawfish implementation team.

Response: NMFS has formed a Smalltooth Sawfish Implementation Team. More information on this team can be found at: <http://www.flmnh.ufl.edu/fish/Gallery/Descript/STSawfish/STSawfish.html>.

Comment 30: A commenter suggested that NMFS require new gear and equipment for release of smalltooth sawfish.

Response: NMFS developed Safe Handling and Release Guidelines for the species (Appendix B), and made revisions to the plan to recommend use of circle hooks to reduce hooking injury and mortality. Training in safe handling and release methods for captured smalltooth sawfish is required in some of NMFS federally-managed fisheries. Additionally, specific types of release equipment are required to be on-board boats in specific federally-managed fisheries.

Comment 31: A commenter stated that future developments should not destroy mangroves.

Response: As stated in the response to comment 17, federal, state, and local laws protect mangroves and may be applicable to development projects on a case-by-case basis. The Plan establishes objectives for protection and restoration of mangroves but the Plan itself cannot impose requirements on future development projects.

Comment 32: One commenter recommended that eBay should not be able to sell any parts of sawfish.

Response: Smalltooth sawfish are protected under Appendix 1 of the Convention on International Trade in Endangered Species of Wild Fauna and Flora. Trade of parts is prohibited.

Comment 33: Numerous (6,000) commenters expressed general support for the recovery plan.

Summary of Changes

Below we describe the changes made to the final Plan that were not discussed in the comment section.

Change 1: The Recovery Criteria for nursery habitat was clarified to include the protection of non-mangrove habitats. Historic and current juvenile encounters indicate they are located in areas outside the range of mangroves. We believe we will need nursery areas outside of the range of mangroves to recover the species, but at this time cannot determine the specific features utilized by juveniles. Once we identify the habitat features utilized by juveniles

in non-mangrove habitats, we need to protect and/or restore these areas for recovery of the species.

Change 2: Section II, Recovery Strategy was rearranged to streamline the document and remove redundancy.

Change 3: Figures 8a, 8b, and 8c were renamed as "Protected Areas" because they include upland areas as well as marine areas.

Change 4: Citations and Recovery Actions were updated to reflect new publication dates or accomplishment of some actions.

Change 5: Latitude and longitude locations were placed in the Recovery Regions Map (Figure 9) to clarify where each recovery region begins and ends.

Change 6: NMFS made several changes to the Implementation Schedule. We provided additional comments in the "Comments" section of the table to note ongoing research. Some action start dates were delayed based on expected budget constraints. Additionally, some of the priority numbers were raised or lowered based on comments from the public. The following Actions were modified or added:

- Action 1.1.3 was changed from a priority 2 to a priority 1.
- Action 1.1.7 was changed from a priority 2 to a priority 3.
- Action 1.1.17 start date was changed to FY08.
- Action 1.5.1 was given a priority of 3.
- Action 2.1.3 start date was changed to FY09.
- Action 2.1.6 was changed from a priority 2 to a priority 1.
- Action 2.1.8 was changed to clarify the function of the area.
- Action 2.1.10 start date was moved to FY08.
- Action 2.1.11 was clarified to include nursery areas only within Florida because Florida is believed to be the center of the population.
- Action 2.2.1 was changed from a priority 2 to a priority 1 and start year was changed to FY08.
- Action 2.2.2 was changed from a priority 2 to a priority 1.
- Action 2.3.3 start date was changed to FY08
- Action 3.1.3 start date was changed to FY08.
- Action 3.3.4 was changed from a priority 1 to a priority 3.
- Action 3.3.5 was changed from a priority 2 to a priority 3.

Authority: 16 U.S.C. 1531 *et seq.*

Dated: January 13, 2009.

Angela Somma,

Chief, Endangered Species Division, National Marine Fisheries Service.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XM79

New England Fishery Management Council; Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Scientific and Statistical Committee on February 6, 2009 to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Friday, February 6, 2009 at 8:30 a.m.

ADDRESSES: *Meeting address:* The meeting will be held at the Radisson Airport Hotel, 2081 Post Road, Warwick, RI 02886; telephone: (401) 739-3000; fax: (401) 732-9309.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; telephone: (978) 465-0492.

SUPPLEMENTARY INFORMATION: The Scientific and Statistical Committee (SSC) will review the process to be used by the Scallop Plan Development Team to develop recommendations, as part of Amendment 15 to the Scallop Fishery Management Plan, for acceptable biological catch (ABCs), annual catch limits (ACLs) and accountability measures (AMs), as well as methods for analyzing the social and economic impacts of management measures. The SSC also will review recommendations from the Skate Plan Development Team regarding updated Skate Total Allowable Landings (TALs), as well as ABCs, ACLs and AMs, as part of Amendment 3 to the Skate Fishery Management Plan, using new data reviewed during the recent Data Poor Stocks Peer Review Meeting.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard, Executive Director, at 978-465-0492, at least 5 days prior to the meeting date.

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

Dated: January 14, 2009.

Tracey L. Thompson,

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

[FR Doc. E9-1084 Filed 1-16-09; 8:45 am]

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COMMODITY FUTURES TRADING COMMISSION

Notice of Additional Conditions on the No-Action Relief When Foreign Boards of Trade That Have Received Staff No-Action Relief To Permit Direct Access to Their Automated Trading Systems From Locations in the United States List for Trading From the U.S. Linked Futures and Option Contracts and a Revision of Commission Policy Regarding the Listing of Certain New Option Contracts

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: The Commodity Futures Trading Commission (Commission) is providing notice requiring foreign boards of trade that may receive Commission staff no-action relief permitting them to make their automated trading systems directly available from the U.S. to comply with additional conditions for the no-action relief to remain effective if they list for trading from the U.S. contracts that are linked to contracts traded on certain U.S.-based entities. Separately, the Commission is providing notice that it is revising its policy regarding the notification procedures applicable to listing an option on a futures contract

that already is (or can be) listed for trading from the U.S.

DATES: Effective Date: The conditions and notification procedures are effective immediately.

FOR FURTHER INFORMATION CONTACT:

Duane C. Andresen, Senior Special Counsel, Division of Market Oversight, Commodity Futures Trading Commission, Three Lafayette Center, 1155 21st Street, NW., Washington, DC 20581. Telephone: 202-418-5492. E-mail: dandresen@cftc.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Since 1996,¹ Commission staff has issued no-action letters² to foreign boards of trade (FBOT) stating that, subject to compliance with certain conditions, the staff will not recommend that the Commission take enforcement action against the FBOT or its members if the FBOT permits its members or participants in the United States to have direct access³ to its electronic trading system without seeking designation under the Commodity Exchange Act (CEA or Act) as a contract market (DCM) or registration as a derivatives transaction execution facility (DTEF).⁴ On June 2,

¹ In February 1996, Commission staff issued no-action relief to Deutsche Terminborse (DTB), an automated international futures and options exchange headquartered in Frankfurt, Germany, that permitted DTB, subject to certain terms and conditions, to place computer terminals in the U.S. offices of its members for principal trading. See CFTC Interpretative Letter No. 96-28 (1996-1997 Transfer Binder) Comm. Fut. L. Rep. (CCH) para. 26,669 (Feb. 29, 1996). In June 1998, DTB merged with the Swiss Options and Financial Futures Exchange and DTB changed its name to Eurex Deutschland.

² See Commission Rule 140.99, 17 CFR 140.99 (2006), which defines the term "no-action letter" as a written statement issued by the staff of a Division of the Commission or of the Office of General Counsel that it will not recommend enforcement action to the Commission for failure to comply with a specific provision of the Act or of a Commission rule, regulation or order if a proposed transaction is completed or a proposed activity is conducted by the beneficiary.

³ Direct access means that the member in the U.S. may enter an order directly into the trade matching engine to be matched according to the trade matching algorithm. Direct access is different from an automated order routing system (AORS) in that an order transmitted via AORS is intermediated in that it is entered into the trade matching engine by or through the intermediary, *i.e.*, the intermediary, not the member in the U.S., has direct access.

⁴ The no-action letters issued to FBOTs, formerly referred to as "foreign terminal no-action letters," are currently referred to as "direct access no-action letters" and are published on the Commission's Web site at: <http://www.cftc.gov/dea/deaforeignterminaltable.htm>. Hereinafter the letters are simply referred to as "no-action letters." Reference to DTEFs in the no-action letters was added following the establishment of that registration category by the Commodity Futures Modernization Act of 2000.

1999, the Commission issued an order which, among other things, withdrew proposed rules that would have governed automated access to FBOTs from the U.S. and instructed the Commission staff to begin immediately processing no-action requests from FBOTs seeking to place trading terminals in the U.S., and to issue responses where appropriate, pursuant to the general guidelines included in the Eurex (DTB) no-action process, or other guidelines established by the Commission.⁵ On October 22, 2006, the Commission issued a Statement of Policy that affirmed the use of the no-action process to permit FBOTs to provide direct access to their electronic trading systems to U.S. members or authorized participants.⁶

Commission staff has issued 21 no-action letters since the DTB letter, all of which grant the no-action relief requested subject to a series of terms and conditions. The terms and conditions, among other things, assure the Division (1) That the FBOT continues to be a bona fide FBOT subject to effective regulation in its home country; (2) that direct access is restricted to authorized entities; (3) that the Division receives notice of any material changes in the information provided to it in support of the no-action request including, without limitation, any modification of the FBOT's membership criteria, the location of its management, personnel or operations, the basic structure, nature, or operation of the trading system, or the regulatory or self-regulatory structure applicable to its members; and (4) that satisfactory information-sharing arrangements between the Commission, the FBOT, and the FBOT's relevant regulatory authorities will remain in effect.

With respect to the listing of new contracts, initially FBOTs that received no-action relief that wished to list additional futures and option contracts for trading by direct access from the U.S. were required to request in writing and receive supplemental no-action relief from Commission staff prior to listing the new contracts. On June 30, 2000, the Commission issued a Statement of Policy that permitted FBOTs with no-action relief to list additional futures and option contracts for trading from the U.S. merely by filing with Commission staff no later

⁵ Access to Automated Boards of Trade, 64 FR 32829 (June 18, 1999).

⁶ Boards of Trade Located Outside of the United States and No-Action Relief from the Requirement to Become a Designated Contract Market or Derivatives Transaction Execution Facility, 71 FR 64443 (November 2, 2006).