

included in a previous FMP amendment.

Once the Council completes the DSEIS, it will submit it to NMFS for filing with the Environmental Protection Agency (EPA). EPA will publish in the **Federal Register** a notice of availability of the DSEIS for public comment. This procedure is pursuant to the Council on Environmental Quality's regulations for implementing the procedural provisions of the National Environmental Policy Act (NEPA) (40 CFR parts 1500-1508) and to NOAA's Administrative Order 216-6 regarding NOAA's compliance with NEPA and the CEQ regulations.

The Council intends to consider public comments received on the DSEIS before adopting final management measures for a final Amendment 5. The Council intends to prepare a final supplemental environmental impact statement (FSEIS) in support of its final Amendment 5. The Council would then submit the final Amendment 5 and supporting FSEIS to NMFS for Secretarial review, approval, and implementation under the Magnuson-Stevens Fishery Conservation and Management Act. NMFS will announce availability of Amendment 5 for public review during the Secretarial review period though notice published in the **Federal Register**. During Secretarial review, NMFS will also file the FSEIS with EPA for a final public comment period on the FSEIS. This comment period will be concurrent with the Secretarial review period and will end prior to final agency action to approve, disapprove, or partially approve Amendment 5. All public comment periods on Amendment 5, its proposed implementing regulations, and on its associated FSEIS will be announced through notice published in the **Federal Register**. NMFS will consider all public comments received during the Secretarial review period for Amendment 5 (60-day period), whether they are on the amendment, the FSEIS, or the proposed regulations, prior to final agency action.

Copies of the preliminary draft Amendment 5/DSEIS may be obtained by contacting the Council (see **ADDRESSES**).

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

Dated: May 17, 2001.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.
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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 697

[Docket No. 0104-13093-1093-01; I.D. 032301C]

RIN 0648-AP18

Atlantic Coastal Fisheries Cooperative Management Act Provisions; American Lobster Fishery

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

ACTION: Advance Notice of Proposed Rulemaking (ANPR)

SUMMARY: NMFS announces that it is considering, and seeking public comment on, revisions to Federal American lobster regulations for the Exclusive Economic Zone (EEZ) in response to recommendations from the Atlantic States Marine Fisheries Commission (ASMFC) to NMFS in Addendum II to Amendment 3 of the Interstate Fishery Management Plan for American Lobster (ISFMP). Addendum II, approved by the ASMFC on February 1, 2001, revises the Amendment 3-egg production schedule in each of seven lobster conservation management areas (LCMAs) to end overfishing of American lobster stocks by the end of 2008. The management measures defined in Addendum II to meet the egg production targets include a series of minimum gauge size increases (increases in the minimum allowable harvest size of American lobster) in five of the seven LCMAs, trap gear modifications, and a 4-year trap reduction schedule for LCMA 3.

DATES: Written comments must be received at the appropriate address or facsimile (fax) number (see **ADDRESSES**) no later than 5 p.m. Eastern Standard Time on or before June 25, 2001.

ADDRESSES: Written comments must be sent to: Harold C. Mears, Director, State, Federal, and Constituent Programs Office, Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930. Comments may also be sent via fax to (978) 281-9117. Comments submitted via e-mail or Internet will not be accepted.

FOR FURTHER INFORMATION CONTACT: Peter Burns, Fishery Management Specialist, (978) 281-9144, fax (978) 281-9117.

SUPPLEMENTARY INFORMATION: The fishery for American lobster takes place

from North Carolina to Maine. More than 50 percent of American lobsters harvested are landed in Maine, with the balance landed mostly in or from Massachusetts, Rhode Island, Long Island Sound and Georges Bank. Over 80 percent of the lobster harvest occurs in state waters, which extend from the coast to 3 nautical miles (5.56 km) from shore. The lobster fishery occurs year-round in the United States, including the summer and fall months when the lobsters are molting. Approximately 97 percent of lobsters are taken in lobster traps. The rest are taken in trawls, gillnets, and dredges and by divers.

Prior to December 1999, the American lobster resource was managed in state waters by the ASMFC under the auspices of the Atlantic Coastal Fisheries Cooperative Management Act (ACFCMA), and in Federal waters by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Acknowledging that approximately 80 percent of the American lobster harvest occurs in state waters, and in an effort to establish a more effective lobster management regime by enhancing interjurisdictional cooperation, NMFS issued a final rule in December 6, 1999 (64 FR 68228) for the American lobster fishery. That final rule removed management measures issued under authority of the Magnuson-Stevens Act and replaced them with the same and a variety of new management measures issued under the authority of ACFCMA. ACFCMA provides NMFS with the authority to implement regulations in Federal waters that are compatible with effective implementation of the ISFMP and consistent with the national standards of the Magnuson-Stevens Act. Such Federal regulations are promulgated pursuant to ACFCMA at 50 CFR part 697.

Amendment 3 of the ISFMP was approved by the ASMFC in December 1997 to achieve a healthy American lobster resource and develop a management regime that provides for sustained harvest, maintains opportunities for participation, and provides for the cooperative development of conservation measures by all stakeholders. Following the May 2000 release of an updated peer-reviewed lobster stock assessment (ASMFC Stock Assessment Peer Review Report No. 00-01), which revised lobster egg production estimates and confirmed that overfishing of lobster stocks is occurring throughout the species range, the ASMFC developed Addendum II to Amendment 3 for implementing additional measures

needed to rebuild American lobster stocks. Addendum II, approved by ASMFC in February 2001, establishes a revised egg production schedule to restore egg production in each LCMA to greater than the overfishing definition by the end of 2008. Measures under the addendum to help achieve this goal include a series of minimum gauge size increases and an increase in the minimum escape vent size of lobster trap gear fished in state and Federal waters of LCMA 2 (inshore Southern New England), LCMA 3 (offshore waters), LCMA 4 (inshore Northern Mid-Atlantic), LCMA 5 (inshore Southern Mid-Atlantic), and the Outer Cape Management Area, but not LCMA 1 (Gulf of Maine) and LCMA 6 (Long Island Sound). The addendum also calls for a revised timeline for LCMA 3 trap reductions, previously approved by the ASMFC under Addendum I. By approving Addendum II, the states have agreed to implement the first annual LCMA-specific gauge increases by December 31, 2001, and to implement the escape vent increase by 2003. On February 26, 2001, NMFS received a recommendation from ASMFC to implement complementary Federal measures for Federal waters of LCMAs 2, 4, 5, and the Outer Cape, as well as in LCMA 3 (comprised entirely of Federal waters).

Specifically, the minimum allowable harvest size of American lobster in state waters of LCMAs 2,4,5 and the Outer Cape is scheduled to increase from 3 1/4 inches (in.) (8.26 cm) to 3 9/32 in. (8.33 cm) in 2001, and increase 1/32 in. (0.08 cm) annually until 2004 to an ultimate minimum size of 3 3/8 in. (8.57 cm). The ASMFC recommends that the gauge increases in Federal waters of LCMA 2, 4, 5, and the Outer Cape, as

well as in LCMA 3 follow this same schedule. If the egg production targets of the ISFMP have not been reached by 2004, ASMFC further recommends additional annual increases in LCMA 3 of 1/32 in. (0.08 cm) until 2008, to an ultimate minimum size of 3 1/2 in. (8.89 cm). The current minimum allowable harvest size for American lobster in all Federal waters is 3 1/4 in. (8.26 cm).

Under Addendum II, states will require that each lobster trap have at least one rectangular escape vent measuring 2 in. (5.08 cm) by 5 3/4 in. (14.61 cm), or at least two circular escape vents, measuring 2 1/2 in. (6.35 cm) in diameter. The ASMFC recommends that Federal regulations implement these new escape vent size requirements in Federal waters. At the current time, Federal regulations require that all lobster trap gear have a rectangular portal with an unobstructed opening not less than 1 15/16 in. (4.92 cm) by 5 3/4 in. (14.61 cm); or two circular portals with unobstructed openings not less than 2 7/16 in. (6.19 cm) in diameter.

Also, Addendum II recommends that the trap reduction schedule previously adopted for LCMA 3 under Addendum I of Amendment 3 to the ISFMP be updated to account for the elapsed time between the two addenda. If implemented through Federal regulations, each LCMA 3 trap allocation of greater than 1200 traps would be reduced on a sliding scale basis over 4 years, not to fall below 1200 traps. LCMA 3 allocations of less than 1200 traps would remain at their initial qualifying level and not increase from that baseline number. No allocation would exceed 2656 traps during the first year of implementation. At the end of the fourth year, the maximum number of traps allowed for any vessel would be

2267. At the current time, fishing effort in LCMA 3 is restricted to a fixed maximum limit of 1800 traps per vessel.

Addendum II furthermore recommends that NMFS require LCMA 3 lobstermen to maintain vessel logs to record lobster harvest. Current Federal regulations do not require vessel logs. Another component of the addendum includes a review of management measures in all LCMAs, by June 2001, to determine if other measures are needed to achieve ISFMP stock rebuilding objectives. Any adjustments would be adopted by ASMFC as a separate addendum by January 2002, at which time ASMFC may recommend further changes to Federal regulations.

ASMFC recommends that NMFS adopt Addendum II's revised egg production schedule in all EEZ areas throughout the range of the lobster resource and implement the associated management measures (gauge increases, modifications to lobster trap gear requirements and LCMA 3 trap reduction schedule, and vessel log reporting requirement) in the Federal waters of the applicable LCMAs. NMFS is considering proposed rulemaking to revise further the Federal lobster regulations to be compatible with the ASMFC's ISFMP and is seeking comments on implementation of the ASMFC's recommendations for Federal waters.

Authority: 16 U.S.C. 1851 note; 16 U.S.C. 5101 *et seq.*

Dated: May 17, 2001.

Clarence Pautzke,

*Acting Assistant Administrator for Fisheries,
National Marine Fisheries Service.*

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