

Therefore, we are initiating a status review to determine if listing the species is warranted. To ensure that the status review is comprehensive, we are soliciting scientific and commercial information regarding the least chub.

It is important to note that the “substantial information” standard for a 90-day finding is in contrast to the Act’s “best scientific and commercial data” standard that applies to a 12-month finding as to whether a petitioned action is warranted. A 90-day finding is not a status assessment of the species and does not constitute a status review under the Act. Our final determination as to whether a petitioned action is warranted is not made until we have completed a thorough status review of the species, which is conducted following a positive 90-day finding. Because the Act’s standards for 90-day and 12-month findings are different, as described above, a positive 90-day finding does not mean that the 12-month finding also will be positive.

We encourage interested parties to continue gathering data that will assist with the conservation and monitoring of the least chub. The petitioners requested that critical habitat be designated for this species. If we determine in our 12-month finding that listing the least chub is warranted, we will address the designation of critical habitat at the time of the proposed rulemaking.

References Cited

A complete list of all references cited in this document is available upon request from the Utah Ecological Services Field Office (see the **FOR FURTHER INFORMATION CONTACT** section).

Author

The primary authors of this document are staff of the Utah Ecological Services Field Office (see the **FOR FURTHER INFORMATION CONTACT** section).

Authority

The authority for this action is section 4 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: October 7, 2008.

Paul R. Schmidt,

Acting Director, U.S. Fish and Wildlife Service.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

RIN 0648–AV61

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Spiny Lobster (*Panulirus argus*) Resources of the Caribbean, Gulf of Mexico, and South Atlantic; Minimum Conservation Standards for Imported Spiny Lobster

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

ACTION: Announcement of availability of fishery management plan amendments; request for comments.

SUMMARY: NMFS announces the availability of Amendment 4 to the Spiny Lobster Fishery Management Plan (FMP) of Puerto Rico and the U.S. Virgin Islands and Amendment 8 to the Joint Spiny Lobster FMP of the Gulf of Mexico and South Atlantic prepared by the Caribbean, South Atlantic, and Gulf of Mexico Fishery Management Councils (Councils). Amendments 4 and 8 would establish minimum conservation standards for imported spiny lobster. The intended effect of Amendments 4 and 8 is to eliminate the primary market for lobster that do not meet the minimum size limit or mean size at sexual maturity, which is expected to result in a reduction in the foreign harvest of these undersized animals and increase the spawning stock biomass and long-term potential yield within the pan-Caribbean spiny lobster fishery.

DATES: Written comments must be received no later than 5 p.m., eastern time, on December 15, 2008.

ADDRESSES: You may submit comments by any of the following methods:

- E-mail: 0648-AV61.NOAA@noaa.gov. Include in the subject line the following document identifier: 0648-AV61-NOA.
- Federal e-Rulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Mail: Jason Rueter, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.
- Fax: 727-824-5308, Attention: Jason Rueter.

Copies of Amendments 4 and 8, which include an Environmental Impact Statement, a Regulatory Impact Review (RIR), and an Initial Regulatory Flexibility Analysis are available from NMFS Southeast Regional Office, 263

13th Avenue South, St Petersburg, FL 33701; e-mail: jason.rueter@noaa.gov.

FOR FURTHER INFORMATION CONTACT:

Jason Rueter, 727-824-5305; fax 727-824-5308; e-mail: jason.rueter@noaa.gov.

SUPPLEMENTARY INFORMATION: The United States is a major importer of spiny lobster, importing over 88,000 tons (over 194 million lbs) over the past 10 years, worth an estimated \$2.27 billion dollars. The United States imports over 90 percent of the spiny lobster harvested in South and Central America and the Caribbean countries. Some of the exporting countries have minimum size limits, but other countries do not. As a result, some of the imported product is legally harvested, but the majority of the undersized product is illegally harvested in the exporting countries. The major exporters to the United States are the Bahamas, Brazil, Honduras, and Nicaragua. All of these exporting countries have some form of minimum size requirement, but the requirements are variable and enforcement is severely lacking. Therefore, NOAA Fisheries Service in coordination with the Caribbean, South Atlantic, and Gulf of Mexico Fishery Management Councils is considering minimum conservation standards on imports to curtail the flow of imported undersized lobster harvested in foreign countries. The pan-Caribbean spiny lobster stock is considered to be fully exploited or over-exploited in much of its range. Therefore, additional restrictions on the harvest of animals below the mean size at sexual maturity (i.e., undersized animals) would greatly benefit the stock. Eliminating the primary market for undersized lobster is expected to result in a reduction in the foreign harvest of undersized animals and increase the spawning stock biomass and long-term potential yield within the pan-Caribbean spiny lobster fishery.

A proposed rule that would implement the measures outlined in Amendments 4 and 8 has been received from the Councils. In accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), NMFS is evaluating the proposed rule to determine whether it is consistent with the FMPs, 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.

Comments received by December 15, 2008 whether specifically directed to the Amendments 4 and 8 or the

proposed rule, will be considered by NMFS in its decision to approve, disapprove, or partially approve the amendments. Comments received after that date will not be considered by NMFS in this decision. All comments

received by NMFS on the amendments or the proposed rule during their respective comment periods will be addressed in the final rule.

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

Dated: October 9, 2008.

Alan D. Risenhoover,

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

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