

services; and facilitating the formation of shippers' associations.

## II. Export Markets

The Export Markets include all parts of the world except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands).

## III. Export Trade Activities and Methods of Operation

1. With respect to the export of Products and Services, licensing of Technology Rights and provision of Export Trade Facilitation Services, EFS International, subject to the terms and conditions listed below, may:

a. Provide and/or arrange for the provisions of Export Trade Facilitation Services and engage in promotional and marketing activities;

b. Collect information on trade opportunities in the Export Markets and distribute such information to clients;

c. Enter into exclusive and/or non-exclusive licensing and/or sales agreements with Suppliers for the export of Products, Services, and/or Technology Rights to Export Markets;

d. Enter into exclusive and/or non-exclusive agreements with distributors and/or sales representatives in Export Markets;

e. Allocate export sales or divide Export Markets among Suppliers for the sale and/or licensing of Products, Services, and/or Technology Rights;

f. Allocate export orders among Suppliers;

g. Establish the price of Products, Services, and/or Technology Rights for sales and/or licensing in Export Markets; and taking title to when provided in order to facilitate the export of goods or services produced in the United States;

h. Negotiate, enter into, and/or manage licensing agreements for the export of Technology Rights;

i. Enter into contracts for shipping to Export Markets; and

j. Refuse to provide Export Trade Facilitation Services to customers in any Export Market or Markets.

2. EFS International may exchange information with individual Suppliers on a one-to-one basis regarding that Supplier's inventories and near-term production schedules in order that the availability of Products for export can be determined and effectively coordinated by EFS International with its distributors in Export Markets.

## IV. Terms and Conditions

1. In engaging in Export Trade Activities and Methods of Operation, EFS International will not intentionally disclose, directly or indirectly, to any Supplier any information about any other Supplier's costs, production, capacity, inventories, domestic prices, domestic sales, or U.S. business plans, strategies, or methods that is not already generally available to the trade or public.

2. EFS International will comply with requests made by the Secretary of Commerce on behalf of the Secretary or the Attorney General for information or documents relevant to conduct under the Certificate. The Secretary of Commerce will request such information or documents when either the Attorney General or the Secretary of Commerce believes that the information or documents are required to determine that the Export Trade, Export Trade Activities and Methods of Operation of a person protected by this Certificate of Review continue to comply with the standards of section 303(a) of the Act.

### Definition

"Supplier" means a person who produces, provides, or sells Products, Services, and/or Technology Rights.

Dated: March 8, 2010.

**Joseph E. Flynn,**

*Director, Office of Competition and Economic Analysis.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648-AY72**

### Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Amendment 10 to the Fishery Management Plan for Spiny Lobster Resources of the Gulf of Mexico and South Atlantic

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

**ACTION:** Notice of Intent (NOI) to prepare an environmental impact statement (EIS); request for comments.

**SUMMARY:** NMFS, Southeast Region, in collaboration with the Gulf of Mexico and South Atlantic Fishery Management Councils (Councils) intends to prepare an EIS to describe and analyze a range of alternatives for management actions

to be included in an amendment to the Fishery Management Plan for the Spiny Lobster Resources of the Gulf of Mexico and South Atlantic (FMP). These alternatives will consider measures to set annual catch limits (ACLs) and accountability measures (AMs) for Caribbean spiny lobster; delegate management of Caribbean spiny lobster to Florida; remove from the FMP or reclassify several other species of lobster currently in the FMP; establish sector allocations; redefine biological reference points; update the framework process; and set other management measures. The purpose of this NOI is to solicit public comments on the scope of issues to be addressed in the EIS.

**DATES:** Written comments on the scope of issues to be addressed in the EIS must be received by NMFS by April 12, 2010.

**ADDRESSES:** You may submit comments, identified by RIN 0648-AY72, by any one of the following methods:

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

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

Instructions: No comments will be posted for public viewing until after the comment period is over. All comments received are a part of the public record and will 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. Comments should apply to the control date as an eligibility requirement for a catch share program, not the catch share program itself.

To submit comments through the Federal e-Rulemaking Portal: <http://www.regulations.gov>, enter "NOAA-NMFS-2010-0044" in the keyword search, then select "Send a Comment or Submission." 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:** Susan Gerhart; phone: (727) 824-5305.

**SUPPLEMENTARY INFORMATION:** In 2006, the Magnuson-Stevens Fishery Conservation and Management Act was re-authorized and included a number of

changes to improve conservation of managed fishery resources. Included in these changes are requirements that the Regional Councils establish both a mechanism for specifying ACLs at a level such that overfishing does not occur in a fishery and AMs to correct if overages occur. This EIS would analyze actions to set initial ACLs and AMs for Caribbean spiny lobster and possibly other lobster species in the fishery management unit.

The highest landings and most Federal regulations are for the Caribbean spiny lobster (*Panulirus argus*). One action under consideration would delegate some Caribbean spiny lobster regulations (e.g., bag/possession limits and size limits) to the Florida Fish and Wildlife Conservation Commission (FWC). If regulations under the FMP are delegated to Florida FWC, NMFS and the Councils would still need to meet the ACL and AM requirements of the Magnuson-Stevens Act.

Four other species of lobster are within the FMP: the smoothtail spiny lobster (*Panulirus laevis*), the spotted spiny lobster (*Panulirus guttatus*), the Spanish slipper lobster (*Scyllarides aequinoctialis*), and the ridged slipper lobster (*Scyllarides nodifer*). Only the ridged slipper lobster is specified in the regulations; the other species are in the management unit for data collection purposes only. Because landings information is scarce and incomplete, setting ACLs would be difficult for these species. The Councils could list these four species as ecosystem components or remove them from the FMP; in either case, ACLs and AMs would not be required.

Current definitions of maximum sustainable yield (MSY), optimum yield (OY), overfishing, and overfished were set for Caribbean spiny lobster in Amendment 6 to the FMP. Currently, the Gulf of Mexico and South Atlantic Councils have different definitions for each biological reference point. The Councils may modify these definitions based on the results of an upcoming stock assessment and the recommendation of the Council Scientific and Statistical Committees. A single definition for each biological reference point that could be used by both Councils would simplify management.

The implementation process for a plan amendment can take over a year from initial scoping to final implementation. Framework procedures provide a mechanism for timelier implementation of routine actions such as setting ACLs, and a guideline for implementing such actions in a consistent manner. The Spiny Lobster

FMP framework procedure was set in Amendment 2 to the FMP and allows changes to be made to gear and harvest restrictions. Revision of the current framework procedure would allow adjustments to ACLs and catch targets. Amendment 2 also contains a process for the State of Florida to propose modifications to regulations. This process is now outdated and needs to be updated.

Two current Federal regulations may be causing detrimental impacts to the resource as well as creating enforcement problems. First, under certain situations and with a Federal tailing permit, Caribbean spiny lobster tails may be separated from the body onboard a fishing vessel. This allowance creates difficulties for law enforcement in determining if prohibited gear, such as hooks and spears were used to harvest the resource. Second, up to 50 Caribbean spiny lobsters under the minimum size limit may be retained aboard a vessel provided they are held in a live well aboard a vessel. When in a trap, such juveniles or "short" lobsters are used to attract other lobsters for harvest. This regulation increases the fishing mortality on juvenile lobsters and may facilitate their illegal trade. The Councils are considering modifying or repealing these two regulations.

On August 27, 2009, an Endangered Species Act (ESA) biological opinion evaluating the impacts of the continued authorization of the spiny lobster fishery on ESA-listed species was completed. The opinion prescribed non-discretionary reasonable and prudent measures (RPMs), to help minimize the impacts of takes by the spiny lobster fishery. Specific terms and conditions required to implement the prescribed RPMs include: Creating new or expanding existing closed areas to protect coral, allowing the public to remove trap-related marine debris, and implementing trap line-marking requirements. The Councils are considering alternatives to meet these requirements.

NMFS, in collaboration with the Councils, will develop an EIS to describe and analyze management alternatives to address the management needs described above. Those alternatives will include a "no action" alternative regarding each action.

In accordance with NOAA's Administrative Order 216-6, Section 5.02(c), Scoping Process, NMFS, in collaboration with the Councils, has identified preliminary environmental issues as a means to initiate discussion for scoping purposes only. These preliminary issues may not represent

the full range of issues that eventually will be evaluated in the EIS.

Copies of an information packet will be available from NMFS (see **ADDRESSES**).

After the draft EIS associated with Amendment 10 is completed, it will be filed with the Environmental Protection Agency (EPA). The EPA will publish a notice of availability of the DEIS for public comment in the **Federal Register**. The draft EIS will have a 45-day comment period. This procedure is pursuant to regulations issued by the Council on Environmental Quality (CEQ) 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.

NMFS will consider public comments received on the draft EIS in developing the final EIS and before adopting final management measures for the amendment. NMFS will submit both the final amendment and the supporting EIS to the Secretary of Commerce (Secretary) for review as per the Magnuson-Stevens Act.

NMFS will announce, through a notice published in the **Federal Register**, the availability of the final amendment for public review during the Department of Commerce Secretarial review period. During Secretarial review, NMFS will also file the final EIS with the EPA and the EPA will publish a notice of availability for the final EIS in the **Federal Register**. 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 the amendment.

NMFS will announce, through a document published in the **Federal Register**, all public comment periods on the final amendment, its proposed implementing regulations, and the availability of its associated final EIS. NMFS will consider all public comments received during the Secretarial review period, whether they are on the final amendment, the proposed regulations, or the final EIS, prior to final agency action.

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

Dated: March 5, 2010.

**Alan D. Risenhoover,**

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

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