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SUPPLEMENTARY INFORMATION: On August 9, 2010, FEMA published a proposed rulemaking at 75 FR 47751, proposing flood elevation determinations along multiple flooding sources in Cumberland County, Maine. FEMA is withdrawing the proposed rulemaking in order to convert the Cumberland County flood study to FEMA's Risk Mapping, Assessment, and Planning (Risk MAP) Program as requested by several communities in the county.

Authority: 42 U.S.C. 4104; 44 CFR 67.4.

Dated: January 11, 2011.

Edward L. Connor,

Acting Federal Insurance and Mitigation Administrator, Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

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DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket ID FEMA-2008-0020; Internal Agency Docket No. FEMA-B-1066]

Proposed Flood Elevation Determinations for York County, Maine (All Jurisdictions)

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice of proposed rulemaking; withdrawal.

SUMMARY: The Federal Emergency Management Agency (FEMA) is withdrawing its notice of proposed rulemaking concerning proposed flood elevation determinations for York County, Maine (All Jurisdictions).

DATES: As of January 20, 2011, the notice of proposed rulemaking published August 18, 2010, at 75 FR 50955 is withdrawn.

ADDRESSES: The docket for this withdrawn rulemaking is available for inspection or copying at 500 C St., SW., Washington, DC 20472

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646-4064, or (e-mail) luis.rodriguez1@dhs.gov.

SUPPLEMENTARY INFORMATION: On August 18, 2010, FEMA published a proposed rulemaking at 75 FR 50955, proposing flood elevation determinations along multiple flooding sources in York County, Maine. FEMA is withdrawing the proposed rulemaking in order to convert the York County flood study to FEMA's Risk Mapping, Assessment, and Planning (Risk MAP) Program as requested by several communities in the county.

Authority: 42 U.S.C. 4104; 44 CFR 67.4.

Dated: January 11, 2011.

Edward L. Connor,

Acting Federal Insurance and Mitigation Administrator, Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 0907151138-1011-02]

RIN 0648-AY03

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Queen Conch Fishery of Puerto Rico and the U.S. Virgin Islands; Queen Conch Management Measures

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

ACTION: Proposed rule; request for comments.

SUMMARY: This proposed rule would implement measures to address overfishing of Caribbean queen conch in the U.S. Caribbean. If promulgated, this rule would extend the queen conch seasonal closure from 3 months to 5 months, and prohibit fishing for and possession of queen conch in or from the Caribbean exclusive economic zone (EEZ) east of 64°34' W. longitude, which includes Lang Bank east of St. Croix, U.S. Virgin Islands (USVI), when harvest and possession of queen conch is prohibited in St. Croix territorial waters as a result of a territorial quota closure. The intended effects of this proposed rule are to prevent additional fishing pressure on queen conch in the U.S. Caribbean, and to improve enforcement of regulations affecting the queen conch resource by improving compatibility among Federal and territorial regulations.

DATES: Written comments must be received on or before February 22, 2011.

ADDRESSES: You may submit comments on the proposed rule identified by 0648-AY03, by any of the following methods:

- **Electronic Submissions:** Submit all electronic public comments via the Federal e-Rulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- **Mail:** Britni Tokotch, 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 has closed. 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.

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.

Comments received through means not specified in this rule will not be considered.

Copies of the regulatory amendment, which includes an Environmental Assessment (EA), an initial regulatory flexibility analysis (IRFA), a regulatory impact review, and a fishery impact statement may be obtained from Britni Tokotch, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701 or may be downloaded from the Southeast Regional Office Web site at <http://sero.nmfs.noaa.gov>.

FOR FURTHER INFORMATION CONTACT: Britni Tokotch, 727-824-5305.

SUPPLEMENTARY INFORMATION: The Caribbean queen conch fishery is managed under the Fishery Management Plan for Queen Conch Resources of Puerto Rico and the USVI (FMP). The FMP was prepared by the Caribbean Fishery Management Council (Council), and is implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

Background

Amendment 1 to the FMP (70 FR 62073, Oct. 28, 2005), prohibited fishing for and possession of Caribbean queen

conch in or from the Caribbean EEZ, except during October through June in the area east of 64°34' W. longitude, which includes Lang Bank east of St. Croix, USVI (this area will subsequently be referred to as Lang Bank). Amendment 1 was intended to reduce fishing mortality and help rebuild the overfished stock of Caribbean queen conch.

According to the NMFS Report on the Status of the U.S. Fisheries for 2008, Caribbean queen conch continues to be overfished and is undergoing overfishing. Additional management measures are therefore needed to prevent additional fishing pressure on the queen conch resource.

In June 2008, the USVI implemented several measures to address overfishing of queen conch, including setting an annual quota of 50,000 lb (28,680 kg) for St. Croix, an annual quota of 50,000 lb (28,680 kg) for St. Thomas and St. John, and closing the fishery seasonally from June 1 through October 31 each year. In April 2009, the St. Croix quota was determined to be reached, and territorial waters off St. Croix were closed to queen conch fishing beginning May 1, 2009. In a letter to the Council dated April 21, 2009, the USVI government requested the Council implement a compatible quota closure for queen conch through an emergency rule that would prohibit the harvest and possession of queen conch in or from the EEZ when St. Croix closes territorial waters to queen conch fishing.

The Council and NMFS have evaluated this request and have determined that an emergency rule to end overfishing of queen conch is not warranted at this time. The available data for queen conch landings does not distinguish between harvest obtained from Federal vs. territorial waters; therefore, it is not clear whether these management measures would actually end overfishing of the queen conch resource. Instead, the Council and NMFS acted to implement a compatible seasonal closure and compatible quota closure for queen conch through a regulatory amendment and this rulemaking. These measures would prevent additional fishing pressure from occurring, until additional landings data are available to determine if these measures would end overfishing. Additionally, these measures would aid in enforcement efforts because when territorial waters close, Federal waters would close as well.

Provisions Contained in This Proposed Rule

The USVI seasonal closure is a 3-month closure, from June 1 through

October 31 each year. To be compatible with this territorial seasonal closure, this rule would extend the current 3-month (July 1 through September 30) closure in Federal waters at Lang Bank to a 5-month closure, from June 1 through October 31 each year.

This rule would also implement a compatible queen conch harvest quota closure for Federal waters. Under this rule, when the USVI closes territorial waters off St. Croix to the harvest and possession of queen conch, NMFS would concurrently close the queen conch harvest in Lang Bank. NMFS would notify the public of the closure by filing a notice with the Office of the Federal Register. During the closure, fishing for or possession of Caribbean queen conch on board a fishing vessel, in or from Lang Bank would be prohibited. Closure of Lang Bank would be in effect until the next fishing season for territorial waters opens November 1, each year.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the regulatory amendment, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

An IRFA was prepared, as required by section 603 of the Regulatory Flexibility Act. The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained at the beginning of this section in the preamble and in the **SUMMARY** section of the preamble. A summary of the analysis follows. A copy of this analysis is available from the Council (*see ADDRESSES*).

The purpose of this proposed rule is to relieve fishing pressure on queen conch and enhance enforcement of regulatory measures to protect queen conch by prohibiting fishing for and possession of queen conch in or from Lang Bank, when harvest of queen conch is prohibited in St. Croix territorial waters as a result of a either quota or seasonal closure. The Magnuson-Stevens Act provides the statutory basis for this proposed rule.

No duplicative, overlapping, or conflicting Federal rules have been identified.

This proposed rule, if adopted, would directly apply to and may directly affect

commercial fishermen and for-hire vessels in St. Croix that harvest queen conch. The Small Business Administration (SBA) has established size criteria for all major industry sectors in the U.S., including commercial fish harvesters and for-hire operations. A business involved in fish harvesting is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of \$4.0 million (NAICS code 114111, finfish fishing) for all its affiliated operations worldwide. For for-hire vessels, the other qualifiers apply and the revenues threshold is \$7.0 million (NAICS code 713990, recreational industries).

All commercial fishermen who may be affected by this proposed rule are determined, for the purpose of this analysis, to be small entities. Federal permits are not required to fish in the U.S. Caribbean. The USVI, however, requires a commercial fishing permit to harvest marine species for commercial purposes. In 2008, there were 383 permitted fishermen in the USVI, of which 223 were in St. Croix and 160 were in St. Thomas and St. John. The ex-vessel value of total harvests by USVI fishermen in 2008 was approximately \$8.8 million, or approximately \$23,000 per fisherman. This estimate is substantially lower than the SBA small entity threshold. Comparable values for just St. Croix fishermen are not available. However, if all revenues for the USVI are attributed to St. Croix fishermen, the appropriate average revenue per entity would be only approximately \$39,000. Even this value, as an extreme upper bound for average revenues for St. Croix fishermen, is significantly lower than the SBA threshold.

The number of for-hire dive operations in the USVI is unknown. However, 27 for-hire vessels were identified in the USVI in 2000. Information on the economic profile of these vessels is not available. However, for-hire vessels have been determined to be small business entities in all Federal fishery-related regulatory actions to date in the Gulf of Mexico and South Atlantic. Therefore, all for-hire businesses that may be affected by this proposed rule are determined, for the purpose of this analysis, to be small business entities.

This proposed rule would not establish any new reporting, recordkeeping, or other compliance requirements.

It is unknown whether this proposed rule, if adopted, would have any direct

adverse economic effect on any small entities. Available queen conch harvest data do not distinguish between queen conch harvested from territorial waters and from Lang Bank. Incompatible Federal and St. Croix territorial water seasonal closures only began in 2008, and the first quota closure of St. Croix territorial waters occurred in 2009. It is unknown whether landings, originating from Lang Bank, continued after closure of the territorial waters in these years, or whether the territorial closure resulted in fishermen ceasing harvest activity in Lang Bank. If the territorial possession prohibition resulted in fishermen stopping all harvest activity, including activity that historically occurred in the Lang Bank, then the proposed rule would not have any direct effect on harvest activity or associated revenues from Lang Bank, because no such harvest activity would be expected to continue to occur. As a result, the only direct effect of the proposed action on fishery participants would be the benefits of regulatory simplicity.

If, however, harvest activity in Lang Bank continues during the period when the territorial waters closed, this proposed rule would result in a reduction in the short-term revenues associated with these harvests. As previously stated, available data do not allow quantification of any harvests from Lang Bank that may be affected. In general, however, because queen conch are distributed in habitats where water depth is less than 100 fathoms (183 m), and the majority of the benthos at that depth around St. Croix is located in territorial waters, it is assumed that the majority of queen conch in the USVI are

harvested from territorial waters. As a result, any reduction in harvests, and associated revenues, from Lang Bank that might occur as a result of compatible closures is expected to be minimal. However, because of the absence of location-specific harvest data, public comment is solicited on the validity of these conclusions.

Only one alternative to the proposed rule was considered. This alternative, the no action alternative (status quo), would not implement compatible closures and, as a result, would not achieve the Council's objectives.

List of Subjects in 50 CFR Part 622

Fisheries, Fishing, Puerto Rico, Reporting and recordkeeping requirements, Virgin Islands.

Dated: January 13, 2011.

Samuel D. Rauch III,
Deputy Assistant Administrator for
Regulatory Programs, National Marine
Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 622 is proposed to be amended as follows:

PART 622—FISHERIES OF THE CARIBBEAN, GULF, AND SOUTH ATLANTIC

1. The authority citation for part 622 continues to read as follows:

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

2. In § 622.32, paragraph (b)(1)(iv) is revised to read as follows:

§ 622.32 Prohibited and limited harvest species.

- * * * * *
- (b) * * *
- (1) * * *

(iv) No person may fish for, or possess on board a fishing vessel, a Caribbean queen conch in or from the Caribbean EEZ, in the area east of 64°34' W. longitude which includes Lang Bank east of St. Croix, U.S. Virgin Islands, except during November 1 through May 31.

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3. In § 622.33, paragraph (d) is added to read as follows:

§ 622.33 Caribbean EEZ seasonal and/or area closures.

* * * * *

(d) *Queen conch closure in the Caribbean EEZ.* (1) Pursuant to the procedures and criteria established in the FMP for Queen Conch Resources of Puerto Rico and the U.S. Virgin Islands, when the U.S. Virgin Islands closes territorial waters off St. Croix to the harvest and possession of queen conch, the Regional Administrator will concurrently close the Caribbean EEZ, in the area east of 64°34' W. longitude which includes Lang Bank, east of St. Croix, U.S. Virgin Islands, by filing a notification of closure with the Office of the Federal Register. Closure of the adjacent EEZ will be effective until the next fishing season for territorial waters opens November 1.

(2) During the closure, as specified in paragraph (c)(1) of this section, no person may fish for or possess on board a fishing vessel, a Caribbean queen conch, in or from the Caribbean EEZ, in the area east of 64°34' W. longitude which includes Lang Bank, east of St. Croix, U.S. Virgin Islands.

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