

School Auditorium, 3150 McGavock Pike, Nashville, Tennessee, from 6:30 pm–8:30 pm. The second public hearing will be held on Tuesday, September 21, 1999, in Yorktown, Virginia, at the York High School Auditorium, 9300 George Washington Highway (U.S. Route 17), Yorktown, Virginia, from 6:00 pm–9:00 pm. The final public hearing will be held on Thursday, September 23, 1999, in Phoenix, Arizona, in the 4th Floor Music Room of the Phoenix Public Library, 1221 North Central Avenue, Phoenix, Arizona, from 6:30 pm to 8:30 pm.

The comment period remains open until October 5, 1999, as originally published in the July 6, 1999, **Federal Register** Notice. Comments and materials concerning this proposal should be sent to Jody Gustitus Millar, Bald Eagle Recovery Coordinator, U.S. Fish and Wildlife Service, 4469–48th Avenue Court, Rock Island, Illinois 61201, or may be sent through our website at www.fws.gov/r3pao/eagle. Comments and materials received will be available for public inspection, by appointment, during normal business hours, at the above address.

FOR FURTHER INFORMATION CONTACT: Jody Gustitus Millar, Bald Eagle Recovery Coordinator, at 309/793–5800 x 524.

SUPPLEMENTARY INFORMATION: The bald eagle (*Haliaeetus leucocephalus*) is listed as threatened under the Endangered Species Act of 1973 throughout the lower 48 States. The bald eagle also occurs in Alaska, Canada, and in small numbers in northern Mexico, where it is not protected under the Act. The Fish and Wildlife Service proposes to remove the bald eagle from the List of Endangered and Threatened Species in the lower 48 States. This action would not alter those conservation measures already in force to protect the species and its habitats.

The **Federal Register** notice announcing the proposed rule was published on July 6, 1999 (64 FR 36454). The comment period ends on October 5, 1999, and the deadline for receipt of public hearing requests was August 20, 1999. Six requests for public hearings have been received within the deadline, including one from New York, one from Virginia, two from Kentucky, one from Arkansas, and one from Arizona. Those parties wishing to make statements for the record should have available a copy of their statements to be presented to the Service at the start of the hearing. Oral statements may be limited to 5 or 10 minutes if the number of parties present necessitates some limitation. There are no limits to the

length of written comments presented at this hearing or mailed to the Service.

Dated: August 27, 1999.

Charles M. Wooley,

Assistant Regional Director, Ecological Services, Region 3, Fort Snelling, Minnesota.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 697

[Docket No. 990105002–9234–02; I.D. 071599B]

RIN 0648–AH41

Atlantic Coastal Fisheries Cooperative Management Act Provisions; American Lobster Fishery; Control Date for American Lobster

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

ACTION: Advance notice of proposed rulemaking; consideration of a control date for the American lobster fishery.

SUMMARY: NMFS announces that it is considering, and is seeking public comment on, whether there is a need under the Atlantic Coastal Fisheries Cooperative Management Act (Atlantic Coastal Act) to limit or restrict future access to the American lobster (*Homarus americanus*) fishery in certain geographic areas. This notice is intended to promote awareness of the potential eligibility criteria for future access to lobster management areas, and to discourage shifts into new areas by lobster trap vessels subject to Federal lobster regulations. It also discourages non-trap vessels from entering the trap fishery based on economic speculation while NMFS, in consultation with the Atlantic States Marine Fisheries Commission (Commission), considers whether and how access and effort should be controlled. The potential eligibility criteria may be based on historical participation and/or historical trap levels in lobster conservation management areas (LCMAs). NMFS is considering September 1, 1999 as a possible “control date,” and such date may be used as a cut-off date for establishing eligibility criteria for future access in the lobster trap fishery subject to Federal authority. This document, therefore, gives the public notification that interested participants should locate and preserve records that

substantiate and verify their participation in the American lobster fishery in Federal waters.

DATES: Comments must be received by October 1, 1999.

ADDRESSES: Comments should be addressed to Harold Mears, Director, State, Federal and Constituent Programs Office, One Blackburn Drive, Gloucester, MA 01930.

FOR FURTHER INFORMATION CONTACT: Bob Ross, Fishery Management Specialist, 978–281–9234.

SUPPLEMENTARY INFORMATION: The lobster fishery takes place from North Carolina to Maine. Over one-half of all American lobsters are landed in Maine, with most of the other landings occurring in or from Massachusetts, Rhode Island, Long Island Sound, and Georges Bank. Most lobsters (over 80 percent) are taken in state waters, which extend from the coast to 3 nautical miles (5.56 kilometers) from shore. The offshore trap fishery, which occurs primarily in the offshore canyon areas at the edge of the continental shelf, has developed only in the past 15 years and accounts for most of the remaining landings. The lobster fishery is a year-round fishery 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, dredges, and by divers.

There has been a dramatic increase in fishing effort since the 1970s and effort is now at an all-time high. NMFS estimates that each trap remains in the water about 30 percent longer than in 1970 before being hauled. Current fishing effort removes a large proportion of lobsters before they have had a chance to spawn even once, and the average size of lobsters landed continues to drop. Harvesters depend heavily on lobsters within one molt of the legal size (3–1/4 inches or 8.26 cm carapace length). In recent years, 85 percent or more of landings have been composed of animals in this size range.

The most recent NMFS assessment of the American lobster stock concluded that it is overfished throughout its range (22nd Northeast Regional Stock Assessment Workshop Document 96–13, dated September, 1996). In the Report to Congress on the Status of Fisheries of the United States, dated September 1997, NMFS included American lobster on the list of overfished fisheries. The lobster stock is considered to be overfished because the number of eggs produced each year is less than 10 percent of the number that would have been produced if the stock

were not fished. The more eggs produced, the greater the margin of safety for the population if environmental conditions become unfavorable for the survival of juvenile lobsters to marketable size and the greater the likelihood of rebuilding. Increasing egg production will reduce the risk that the stock will collapse and increase the chances of rebuilding the resource.

The lobster fishery has been managed from the Federal perspective under regulations at 50 CFR part 649 pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The fishery in state waters is mostly managed through an interstate plan developed by the Commission, consistent with the Atlantic Coastal Act. Since the majority of lobsters are harvested from state waters, NMFS has proposed that lobsters would be managed more effectively through an interstate plan and Federal regulations issued under the authority of Atlantic Coastal Act [61 FR 13478]. Accordingly, this potential control date would be associated with Federal lobster regulations under either the Magnuson-Stevens Act or the Atlantic Coastal Act, depending on if and when NMFS withdraw the Magnuson-Stevens Act regulations.

The Commission approved Amendment 3 to the American Lobster Interstate Fishery Management Plan (ISFMP) in December 1997. The states, through adoption of Amendment 3 to the Commission's American Lobster ISFMP, recognized the need to end overfishing and rebuild stocks of American lobster. Amendment 3 identified a variety of new requirements in state waters, including the establishment of a procedure whereby fishermen, including some who fish exclusively in Federal waters, may make recommendations for further management measures on an area by area basis. In the spring of 1998, in each of the seven lobster management areas identified in the ISFMP, Lobster Conservation Management Teams (LCMTs) were formed to advise and make recommendations to the Commission on management measures necessary to restore egg production for the American lobster resource in each of the management areas to greater than the overfishing definition. For each LCMT that submitted a management proposal, the recommended management measures were reviewed by the Commission's Lobster Technical Committee to assess their ability to achieve the egg production milestones for the year 2000. The proposals vary by management area, and each proposal

includes one or more of the following management measures: Increasing the minimum gauge size, implementing a maximum gauge size, increasing the escape vent size, capping fishing effort, limiting the number of traps per vessel, and closing areas. In April and May 1999, the Commission took a selective list of management measures identified in the LCMT area proposals to public hearings as a draft Addendum 1 to Amendment 3 of the ISFMP.

The Commission approved Addendum 1 on August 3, 1999. It includes area management measures to further limit access to the lobster fishery. Subsequent implementation of these measures is intended by the Commission to be based upon historic participation guidelines approved as part of Addendum 1. These guidelines include consideration of unique limitations, fishing practices, and records for evaluating previous fishing history, which would lead to resource allocation decisions in selected management areas. As a result of this addendum to the ISFMP, the Commission will likely recommend area-specific actions for Federal waters, which could include management measures based upon the historic participation guidelines. The Commission intends to assess other aspects of the area based management proposals, including an increase in the minimum gauge size and increases in the escape vent size, after the status of the stock is updated during the fall, 1999. This assessment could also lead to additional recommendations for management measures in Federal waters.

NMFS is also aware that recent constraints on participation in several traditional otter trawl fisheries, including the Mid-Atlantic summer flounder, scup, and black sea bass fisheries and the New England multispecies fisheries, and broader use of area closures may result in a shift in fishing effort to the lobster trap fishery by vessels that have traditionally harvested lobsters by non-trap methods. An unchecked increase in effort in the lobster trap fishery, as a result of a shift from non-trap to trap gear, may jeopardize current efforts to end overfishing and rebuild stocks.

For these reasons, NMFS, in consultation with the Commission, is considering proposed rulemaking to address whether and how to limit entry of vessels currently holding a Federal American lobster limited access fishing permit, or vessels that are subject to Federal lobster regulations, in to LCMAs where such vessels have not historically fished, as well as limiting or restricting

non-trap vessels from using traps to fish for lobsters. Proposed rulemaking may include potential eligibility criteria based on historical participation and/or historical trap levels in LCMAs. NMFS is considering September 1, 1999 as a possible control date and NMFS may use such date as a cut-off date for establishing eligibility criteria for future access in the lobster fishery subject to Federal authority. The establishment of this control date is intended, in part, to discourage speculative shifting of effort by fishermen subject to Federal lobster regulations into certain LCMAs or from non-trap to trap gear.

Consideration of a control date does not commit NMFS to any particular management regime or criteria, either for entry into lobster management areas not historically fished by Federal permit holders, or for the restrictions on the transfer of non-trap fishing effort. Fishermen are not guaranteed future participation in any lobster management area, regardless of their entry date or intensity of participation in the fishery before or after the control date under consideration. NMFS subsequently may choose a different control date or may choose a management regime that does not make use of a control date. NMFS may choose to give variably weighted consideration to fishermen active in the fisheries before and after the control date. Other qualifying criteria, such as, but not limited to, documentation of landings and sales, may be applied for entry. NMFS may also choose to take no further action to control entry or access into the lobster management areas or address the shift in effort from non-trap to trap gear, in which case the control date may be rescinded. Any action will be taken pursuant to the requirements established under the Atlantic Coastal Act. This document, therefore, gives the public notification that interested participants should locate and preserve records that substantiate and verify their participation in the American lobster fishery in Federal waters.

NMFS is seeking public comment on this advance notice of proposed rulemaking (see ADDRESSES) under the Atlantic Coastal Act. Public comment is sought as to whether there is a need to limit or restrict future access to the American lobster fishery in certain geographic areas, known as LCMAs, and, if there is a need, as to what should be the eligibility criteria.

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

Dated: August 24, 1999.

Penelope D. Dalton,

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

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