

and their habitat, specifically in Closed Area I. Data from the five observed trips in Closed Area I from the 2000 tuna purse seine experimental fishery did not show any bycatch of demersal species. These sets occurred in depths ranging from 55 to 86 fm. In 2001, EFPs were issued to all five vessels authorized to fish for bluefin tuna with purse seine gear. During this experiment, four trips were made into Closed Area I. On a single trip, one of the participating vessels made three sets inside Closed Area I in depths ranging from 40 to 60 fm. Bluefin tuna were caught on only one of these three sets, totaling 82 bluefin tuna for the trip and for the 2001 experimental fishery as a whole.

During the 2000 experimental fishery, participating vessels were required to fish in locations where the water depth was greater than 30 fathoms, or where the depth of the water was greater than the depth of the net at its deepest point, or modify the net in use by this vessel so that its depth was less than the depth of the water in order to avoid adverse impacts to EFH. For the 2001 experimental fishery, the applicant indicated that the gear could be fished in such a way that it would not come in contact with the bottom, regardless of the depth of the net or water. The applicant also stated that due to the currents and tides in Closed Area I, the net would never extend below the sea surface to the full extent of its height. Therefore, the applicant requested that the depth restrictions implemented for the 2000 experimental fishery be removed, stating that the incentive to protect the purse seine gear from interactions with the ocean floor would result in careful attention to keep the gear off the bottom. In light of the information provided by the applicant, the depth restrictions of the 2000 experimental fishery were waived for the 2001 fishery. Because the results of the 2001 fishery indicate that there were no interactions between the gear and bottom habitat, NMFS does not intend to implement depth requirements for the 2002 experimental fishery.

Due to lingering questions concerning the degree of interactions between purse seine gear used in this fishery and its interactions with regulated groundfish species, a third experimental fishery has been requested. The Council is considering an exemption for tuna purse seine gear within all groundfish closed areas as part of Amendment 13 to the Multispecies FMP. Information collected through this experimental fishery would be used in development of Amendment 13.

Proposed EFP

The proposed EFP would exempt five purse seine vessels fishing for giant Atlantic bluefin tuna under 50 CFR part 635 from the gear restrictions of Closed Area I, as described at 50 CFR 648.81(a). Similar to the 2000 and 2001 purse seine experimental fisheries in Closed Area I, no more than five vessels would be authorized to participate. The experimental fishery would begin on August 15, 2002, and continue until the five vessels have achieved their individual fishing quotas, or the end of the 2002 calendar year, whichever occurs first. Although these individual quotas may be taken through the end of the 2002 fishing year (December 31, 2002), they are typically taken by the middle of October. Because the bluefin tuna fishery takes place throughout the waters off New England, and the concentrations of fish often move between areas, it is likely that the fishery would take place within Closed Area I for only a few weeks.

Unlike the 2000 and 2001 experimental fisheries, observers will not be required for the proposed 2002 experimental fishery. As a result, the vessel captains will be required to collect information on bottom depth, depth of net, mesh size used, location of set, information on any bycatch species, any interactions between the net and the bottom, and any incidental take of marine mammals or protected species. Any multispecies that are captured during fishing activities will be required to be discarded.

Environmental Assessments (EAs) that analyzed the impacts of the experimental tuna purse seine fishery on the human environment were prepared for the 2000 and 2001 experimental fisheries. These EAs concluded that the activities that were conducted under the EFP are consistent with the goals and objectives of the Multispecies FMP, are consistent with the HMS FMP, and will have no significant environmental impacts. The EAs also considered the impacts of the EFP activities on EFH, marine mammals, and protected species and found that the experimental tuna purse seine fishery will have no significant impact to EFH, marine mammals, or protected species. A EA was prepared for the 2001 experimental fishery and a Supplement to the EA has been prepared for the 2002 experimental fishery. This supplement incorporates the results of the 2001 experimental fishery, discusses minor changes to the experimental fishery for 2002, addresses the cumulative impacts of the proposed 2002 experimental fishery, and provides

a revised Finding of No Significant Impact Statement.

EFPs would be issued to the five participating vessels to exempt them from the restrictions of Closed Area I of the Multispecies FMP.

Regulations under the Magnuson-Stevens Fishery Conservation and Management Act require publication of this notification to provide interested parties the opportunity to comment on applications for proposed EFPs.

Based on the results of this EFP, this action may lead to future rulemaking.

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

Dated: July 2, 2002.

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

National Oceanic and Atmospheric Administration

50 CFR Parts 600 and 697

[I.D. 060502A]

Atlantic Coastal Fisheries Cooperative Management Act Provisions; Application for Exempted Fishing Permit (EFP)

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

ACTION: Notification of a request for an EFP to harvest horseshoe crabs; request for comments.

SUMMARY: NMFS announces that the Director, Office of Sustainable Fisheries, is considering issuing an EFP to Limuli Laboratories to conduct a second year of an experimental fishing operation otherwise restricted by regulations prohibiting the harvest of horseshoe crabs in the Carl N. Schuster Jr. Horseshoe Crab Reserve (Reserve) located 3 nautical miles (nm) seaward of the mouth of Delaware Bay. NMFS is considering issuing an EFP for the harvest of 10,000 horseshoe crabs for biomedical purposes and requiring as a condition of the EFP the collection of data related to the status of Delaware Bay horseshoe crabs within the Reserve. Therefore, this document invites comments on the issuance of an EFP to Limuli Laboratories.

DATES: Comments on this action must be received on or before July 24, 2002.

ADDRESSES: Written comments should be sent to John H. Dunnigan, Director,

Office of Sustainable Fisheries, NMFS, 1315 East West Highway, Room 13362, Silver Spring, MD 20910. Mark the outside of the envelope "Comments on Horseshoe Crab EFP Proposal." Comments may also be sent via facsimile (fax) to (301) 713-0596. Comments will not be accepted if submitted via e-mail or the Internet.

FOR FURTHER INFORMATION CONTACT: Tom Meyer, Fishery Biologist, (301) 713-2334.

SUPPLEMENTARY INFORMATION:

Background

The regulations that govern exempted fishing, at 50 CFR 600.745(b) and 697.22 allow a Regional Administrator or the Director of the Office of Sustainable Fisheries to authorize for limited testing, public display, data collection, exploration, health and safety, environmental clean-up and/or hazardous removal purposes, the targeting or incidental harvest of managed species that would otherwise be prohibited. An EFP to authorize such activity may be issued, provided there is adequate opportunity for the public to comment on the EFP application, the conservation goals and objectives of the fishery management plan are not compromised, and issuance of the EFP is beneficial to the management of the species.

The Reserve was established on February 5, 2001 (66 FR 8906), to provide protection for the Atlantic coast stock of horseshoe crabs, and to promote the effectiveness of the Atlantic States Marine Fisheries Commission's (Commission) Interstate Fishery Management Plan (ISFMP) for horseshoe crab. The final rule prohibited fishing for horseshoe crabs in the Reserve and the possession of horseshoe crabs on a vessel with a trawl or dredge aboard while in the Reserve. The rule did not allow for any biomedical harvest or the collection of fishery dependent data. However, in the comments and responses section, NMFS stated that it would consider issuing EFPs for the biomedical harvest of horseshoe crabs from the Reserve.

The biomedical industry collects horseshoe crabs, removes approximately 30 percent of their blood, and returns them alive to the water. Approximately 10 percent do not survive the bleeding process. The blood contains a reagent called Limulus Amebocyte Lysate (LAL) that is used to test injectable drugs and medical devices for bacteria and bacterial by-products. Presently, there is no alternative to LAL derived from the horseshoe crab.

NMFS manages horseshoe crabs in the exclusive economic zone in close cooperation with the Commission. The Commission's Horseshoe Crab Management Board met on April 21, 2000, and recommended that biomedical companies with a history of collecting horseshoe crabs in the Reserve be given an exemption to continue their historic levels of collection not to exceed a combined harvest total of 10,000 crabs annually. The Commission's Horseshoe Crab Plan Review Team has reported that biomedical harvest of up to 10,000 horseshoe crabs should be allowed to continue in the Reserve given that the resulting mortality should be only about 1,000 horseshoe crabs (10 percent mortality during bleeding process). Also, the Commission's Horseshoe Crab Stock Assessment Committee Chairman recommended that, in order to protect the Delaware Bay horseshoe crab population from over-harvest or excessive collection mortality, no more than a maximum of 20,000 horseshoe crabs should be collected for biomedical purposes from the Reserve. In addition to the direct mortality of horseshoe crabs that are bled, it can be expected that more than 20,000 horseshoe crabs will be trawled up and examined for LAL processing. This is because horseshoe crab trawl catches usually include varied sizes of horseshoe crabs and large female horseshoe crabs are the ones selected for LAL processing. The unharvested horseshoe crabs are released at sea with some unknown amount of mortality, but this mortality is expected to be negligible.

Collection of horseshoe crabs for biomedical purposes from the Reserve is necessary because of the low numbers of horseshoe crabs found in other areas along the New Jersey Coast from July through October and in light of the critical role horseshoe crab blood plays in proper health care. In conjunction with the biomedical harvest, NMFS is considering requiring that scientific data be collected from the horseshoe crabs taken in the Reserve as a condition of receiving an EFP. Since the Reserve was established on February 5, 2001, the only fishery data from this area were collected under an EFP issued to Limuli Laboratories on September 28, 2001, which allowed collections until October 31, 2001. Further data are needed to improve the understanding of the horseshoe crab population in the Delaware Bay area and to better manage the horseshoe crab resource under the cooperative state/Federal management program. The information collected through the EFP will be provided to

NMFS, the Commission and to the State of New Jersey.

Results of Previous Year's EFP

On April 11, 2001, Limuli Laboratories (Limuli) submitted an EFP application to collect horseshoe crabs for biomedical and data collection purposes from the Carl N. Schuster Jr. Horseshoe Crab Reserve (Reserve), and subsequently submitted a supplement on July 9, 2001. An EFP was issued to Limuli on September 28, 2001, which allowed them to collect horseshoe crabs until October 31, 2001, in the Reserve. To complete the study proposed in the EFP application, Limuli needed to collect from August through October. The study was modified and conducted with some limitations because of the late start. Limuli Laboratory is operated seasonally and was closed down in mid-September; therefore, the horseshoe crabs collected during the EFP study were not bled for manufacture of LAL, but were used for data collection purposes. A total of 250 horseshoe crabs were collected and examined (133 females and 117 males) from the Reserve on three dates, October 12th, 24th, and 29th, 2001. The specimens were sexed, measured, aged, tagged and released. The horseshoe crabs were aged in 4 categories using Dr. Schuster's criteria of aging by appearance: first year or virgin, young, medium and old age. When separated into age categories, 62 percent were classified as young animals. The majority of the horseshoe crabs had encrusting slipper shells on their shells. The collected crabs were active with only one crab dying during the trawling process. Thirty percent of the horseshoe crabs showed sign of healed injuries/deformities and 3 percent had new injuries. Only one of the new injuries appeared life threatening. More females had injuries than males; 40 versus 25 percent. After tagging was performed, horseshoe crabs were released at the water's edge at Highs Beach, New Jersey. One added benefit of the study was an opportunity to photographically document the condition of horseshoe crabs (15 females and 15 males) after collection by the trawl, which is the primary method used to capture horseshoe crabs for the manufacture of LAL.

Proposed EFP

Limuli proposes to conduct a second year of the study using the same means and methods used during year one.

The proposed EFP would exempt one commercial vessel from regulations at 50 CFR 697.7(e), which prohibit fishing for horseshoe crabs in the Reserve described in § 697.23(f)(1) and prohibit

possession of horseshoe crabs on a vessel with a trawl or dredge aboard in the same Reserve.

Limuli Laboratories of Cape May Court House, in cooperation with the State of New Jersey's Division of Fish and Wildlife, submitted an application for an EFP on May 31, 2002, and a supplement on June 6, 2002. NMFS has made a preliminary determination that the subject EFP contains all the required information and warrants further consideration. NMFS has also made a preliminary determination that the activities authorized under the EFP would be consistent with the goals and objectives of the Federal horseshoe crab regulations and the Commission's Horseshoe Crab ISFMP.

The regulations at 50 CFR 600.745(b)(3)(v) authorize NMFS to attach terms and conditions to the EFP consistent with the purpose of the exempted fishery, the objectives of the horseshoe crab regulations and fisheries management plan, and other applicable law. NMFS is considering terms and conditions such as:

(1) Limiting the number of horseshoe crabs collected in the Reserve to no more than 500 per day and to a total of no more than 10,000 per year;

(2) Requiring collection under an EFP to take place over a total of approximately 20 days during the months of July, August, September, and October. Horseshoe crabs are readily available in harvestable concentrations nearshore earlier in the year, and offshore in the Reserve during July through October;

(3) Requiring a 5 and one-half inch flounder net to be used by the vessel to collect the horseshoe crabs. This condition would allow for continuation of traditional harvest gear and adds to the consistency in the way horseshoe crabs are harvested for data collection;

(4) Limiting trawl tow times to 30 minutes as a conservation measure to protect sea turtles, which are expected to be migrating through the area during the collection period, and are vulnerable to bottom trawling;

(5) Restricting the hours of fishing to daylight hours only, approximately from 7:30 a.m. to 5 p.m. to aid law enforcement. NMFS also is considering a requirement that the State of New Jersey Law Enforcement be notified daily when and where the collection will take place; and

(6) Requiring that the collected horseshoe crabs be picked up from the fishing vessels at docks in the Cape May Area and transported to local laboratories, bled for LAL, and released alive the following morning into Lower Delaware Bay.

Also as part of the terms and conditions of the EFP, for all horseshoe crabs bled for LAL, NMFS is considering a requirement that the EFP holder provide information on sex ratio and daily numbers, and tag 10 percent of the horseshoe crabs harvested. Also, the EFP holder may be required to examine at least 200 horseshoe crabs for:

a. Morphometric data, by sex—e.g. interocular (I/O) distance and weight, and

b. Level of activity, as measured by a response or by distance traveled after release on a beach.

Based on the results of this EFP, this action may lead to future rulemaking.

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

Virginia M. Fay,
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 648

[I.D. 070102F]

New England Fishery Management Council; Public Meeting

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

ACTION: Public meeting notification.

SUMMARY: The New England Fishery Management Council (Council) will hold a 3-day Council meeting on July 23 through 25, 2002, to consider actions affecting New England fisheries in the U.S. exclusive economic zone (EEZ).

DATES: The meeting will be held on Tuesday, Wednesday, and Thursday July 23, 24, and 25, 2002. The meeting will begin at 8:30 a.m. on Tuesday and at 8 a.m. on Wednesday and Thursday.

ADDRESSES: The meeting will be held at the DoubleTree Hotel, 1230 Congress Street, Portland, ME 04102; telephone (207) 774-5611. Requests for special accommodations should be addressed to the New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950; telephone (978) 465-0492.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council, (978) 465-0492.

SUPPLEMENTARY INFORMATION:

Tuesday, July 23, 2002

Following introductions, the Council will consider approval of initial action on Framework Adjustment 2 to the Monkfish Fishery Management Plan (FMP). The action would implement the measures contained in NMFS's spring 2002 monkfish emergency rule, including a revision to the overfishing reference point that defines the maximum fishing mortality rate threshold, and allows for calculations that would adjust the days at sea (DAS) allocations and/or trip limits to achieve the monkfish catch targets in Fishing Year 2003. The Council also will consider and approve management alternatives for inclusion in Amendment 2 to the FMP, for purposes of analysis in the associated Draft Supplemental Environmental Impact Statement (DSEIS). Issues to be considered may include, but are not limited to: revisions to the overfishing definition reference points; adjustments to the DAS program; a management program for a deepwater directed monkfish fishery; individual vessel quotas or DAS allocations; permit qualification criteria; and management measures for vessels fishing for monkfish only south of 38 degrees N. Following a noontime break, the Scallop Committee will recommend approval of initial action on the annual framework adjustment to the Sea Scallop FMP (Framework Adjustment 15). The Council will identify management alternatives for inclusion in the framework. These may include, but are not limited to, an adjustment to the 2003 scallop vessel DAS allocations and continued controls on scallop harvests in the Virginia Beach and Hudson Canyon areas of the Mid-Atlantic. The Council also is scheduled to vote on final approval of the herring specifications to be recommended to NMFS for 2003. This will occur following a review of the 2001 Herring Stock Assessment and Fishery Evaluation (SAFE) Report and a presentation on the recommendations of the Herring Plan Development Team, and the Herring Oversight Committee and its Advisory Panel concerning the specification of optimum yield, levels of domestic annual harvest and processing, including at-sea processing, border transfer, and the amount of herring that may be made available in 2003 to foreign joint venture processing (JVP and IWP) and foreign directed fishing (TALFF), if any. In addition, NMFS will consult with the Council concerning industry requests for an inseason increase to the 2002 specifications for JVP and IWP. The Skate Committee will