

## RELEASE OF RESTRICTED INFORMATION

(XX/XX)

(a) Definition. "Restricted information," as used in this clause, means recorded information, regardless of form or the media on which it may be recorded, the use and dissemination of which is restricted, and includes:

- (1) Limited rights data;
- (2) Restricted computer software;

(3) Information incidental to contract administration, such as financial, administrative, cost or pricing, or management information that embody trade secrets or are commercial or financial and confidential or privileged; and

(4) Information designated by NASA as Sensitive But Unclassified (SBU).

(b) In performance of NASA contracts, contractors, as well as their subcontractors and their individual employees, may require access to restricted information in the Government's possession. The Contractor agrees that, where needed for the performance of a NASA contract, NASA may release to its contractors, and their subcontractors, restricted information delivered during the course of this contract. Additionally, offerors agree that restricted information submitted with their proposals may be provided to NASA service contractors that assist NASA with contract closeout. If suitably marked with a legend indicating that use and disclosure of restricted information is restricted, such restricted information will be subject to the enumerated protections mandated by this clause and the clause at 1852.227-73, Handling and Protection of Restricted Information. The Contractor's limited rights data and restricted computer software will be provided to other NASA contractors or subcontractors only as authorized by the clause at 52.227-14, Rights in Data—General, Alternates II and III (as modified by 1852-227-14, if applicable).

(c) For purposes of marking such restricted information, the Contractor may, in addition to any other notice or legend otherwise required (e.g., notices required under the clause at 52.227-14, Rights in Data—General, Alternates II and III), use a notice similar to the following:

Mark the title page with the following legend:

This document was submitted by [insert submitter's name] in performance Contract No. [insert contract no.]. Submitter asserts that this document contains restricted information that embodies trade secrets or is commercial or financial and privileged or confidential. Such information shall not be disclosed outside of NASA except in accordance with the clause at NFS 1852.227-73, Handling and Protection of Restricted Information. This restriction does not limit the Government's right to use this restricted information if it is obtained from another source without restriction. The restricted information subject to this notice is contained in pages [insert page numbers or other identification of pages].

Mark each page containing restricted information the Contractor wishes to restrict with the following legend:

This page contains restricted information and is subject to the restriction on the title page of this document.

(d) The Contracting Officer shall evaluate restricted information marked in accordance with paragraph (c) of this clause. Unless the Contracting Officer decides, with the advice of Center legal counsel, that reasonable grounds exist to challenge the markings, NASA and its contractors and subcontractors, shall comply with all of the safeguards contained in paragraph (e) of this clause and the clause at 1852.227-73, Handling and Protection of Restricted Information.

(e) To receive access to restricted information needed to assist NASA in accomplishing NASA mission activities and management and administrative functions, the Contractor or subcontractor must be operating under a contract that contains the clause at 1852.227-73, Handling and Protection of Restricted Information, which obligates the Contractor or subcontractor, with respect to restricted information marked with a legend indicating that use and disclosure of the information is restricted, to do the following:

(1) Use such restricted information only for the purpose of performing the services specified in its contract, and not appropriate the restricted information to its own or another's use;

(2) Safeguard such restricted information from unauthorized use and disclosure;

(3) Allow access to such restricted information only to those employees and subcontractors that need it to perform services under the contract;

(4) Preclude access and disclosure of such restricted information to persons and entities outside of the contractor's or its subcontractor's organization(s);

(5) Inform employees who may require access to such restricted information about obligations to use it only to perform the services specified in its contract and to safeguard it from unauthorized use and disclosure;

(6) Require that each employee that has access to restricted information complies with the obligations regarding restricted information included in this clause; and

(7) Return or dispose of such restricted information, as NASA may direct, when the restricted information is no longer needed for performance of work under the contract.

(f) Exceptions. The obligations and prohibitions of paragraph (e) of this clause do not apply to restricted information which the receiving contractor can demonstrate to the Contracting Officer—

(1) Was publicly available at the time of receipt by the receiving contractor or thereafter becomes publicly available without breach of the receiving contractor's contract;

(2) Was known to, in the possession of, or developed by or for the receiving contractor independently of the restricted information received from the Government and such knowledge, possession, or independent development can be shown;

(3) Was received by the receiving contractor from a party other than the owner of the restricted information, who has the authority to release the restricted information and did not require the receiving contractor to hold it in confidence;

(4) Is released to or becomes available to a third party on an unrestricted basis from

the owner of the restricted information, someone acting under the owner's control, or with the prior written approval of the owner; or

(5) Is required to be released under a valid order of a court or Government agency, provided that the Contractor provides prior written notice to the owner of the restricted information of such obligation and the opportunity to oppose such disclosure.

(g) When a contractor will have primary responsibility for operating an information technology system for NASA that contains restricted information, the contractor's contract shall also include the clause at 1852.204-76, Security Requirements for Unclassified Information Technology Resources. The Security Requirements clause requires the contractor to implement an Information Technology Security Plan to protect information processed, stored, or transmitted from unauthorized access, alteration, disclosure, or use. Contractor personnel requiring privileged access or limited privileged access to these information technology systems are subject to screening using the standard National Agency Check (NAC) forms appropriate to the level of risk for adverse impact to NASA missions. The Contracting Officer may allow the Contractor to conduct its own screening, provided the contractor employs substantially equivalent screening procedures.

(h) This clause does not affect NASA's responsibilities under the Freedom of Information Act.

(i) Subcontracts. The Contractor shall insert, or require the insertion of, this clause, including this paragraph (i), suitably modified to reflect the relationship of the parties, in all subcontracts (regardless of tier).

(End of clause)

**1852.237-72 and 1852.237-73 [Removed]**

6. Remove sections 1852.237-72 and 1852.237-73.

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**BILLING CODE 7510-01-P**

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 622****RIN 0648-AY32****Fisheries of the Caribbean, Gulf of Mexico and South Atlantic; Comprehensive Ecosystem-Based Amendment 1**

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

**ACTION:** Notice of availability (NOA); request for comments.

**SUMMARY:** The South Atlantic Fishery Management Council (Council) has

submitted CE-BA 1 which includes amendments to the following South Atlantic fishery management plans (FMPs): the FMP for Coral, Coral reefs, and Live/Hard Bottom Habitats of the South Atlantic Region (Coral FMP); the FMP for the Dolphin and Wahoo Fishery off the Atlantic States (Dolphin and Wahoo FMP); the FMP for Golden Crab of the South Atlantic Region (Golden Crab FMP); the FMP for the Shrimp Fishery of the South Atlantic Region (Shrimp FMP); and the FMP for the Snapper-Grouper Fishery of the South Atlantic Region (Snapper-Grouper FMP), as prepared and submitted by the South Atlantic Fishery Management Council (Council); as well as the FMP for Coastal Migratory Pelagic (CMP) Resources (CMP FMP); and the FMP for the Spiny Lobster Fishery of the Gulf of Mexico and South Atlantic (Spiny Lobster FMP), as prepared and submitted by the South Atlantic and Gulf of Mexico Fishery Management Councils.

Management actions proposed in CE-BA 1 include the establishment of deepwater Coral Habitat Areas of Particular Concern (CHAPCs) to protect what is currently thought to be the largest distribution (>23,000 square miles) of pristine deepwater coral ecosystems in the world. Actions in the amendment would prohibit the use of bottom damaging fishing gear and allow for the creation of allowable fishing zones within the CHAPCs in the historical fishing grounds of the golden crab and deepwater shrimp fisheries while extending protection for deepwater coral ecosystems. CE-BA 1 would also amend the Coral, Shrimp, Coastal Migratory Pelagics, Golden Crab, Spiny Lobster, Dolphin-Wahoo, and Snapper-Grouper FMPs to provide spatial information on previously designated essential fish habitat (EFH).

**DATES:** Comments must be received no later than 5 p.m., eastern time, on May 3, 2010.

**ADDRESSES:** Comments on CE-BA 1, identified by 0648-AY32, may be submitted by any one of the following methods:

- Electronic submissions: Submit all electronic public comments via the Federal rule-making portal: [www.regulations.gov](http://www.regulations.gov)
- Mail: Karla Gore, NMFS, Southeast Regional Office, 263 13th Avenue South, St. Petersburg, FL 33701.
- Fax: (727) 824-8308 Attn: Karla Gore.

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 generally be posted to [www.regulations.gov](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. Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

Copies of CE-BA 1, which includes a final environmental impact statement, a regulatory impact review, a regulatory flexibility analysis, and a fishery impact statement are available from the South Atlantic Fishery Management Council, 4055 Faber Place, Suite 201, North Charleston, SC 29405; telephone 843-571-4366; fax 843-769-4520; e-mail [safmc@safmc.net](mailto:safmc@safmc.net).

**FOR FURTHER INFORMATION CONTACT:**

Karla Gore, telephone: 727-824-5305; fax: 727-824-5308; e-mail: [Karla.Gore@noaa.gov](mailto:Karla.Gore@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The fisheries for coastal migratory pelagics; coral, coral reefs, and live/hard bottom habitats; dolphin and wahoo; golden crab; shrimp; spiny lobster; and snapper-grouper off the southern Atlantic states are managed under their respective FMPs. The FMPs were prepared by the Council and are implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

**Background**

Management actions proposed in CE-BA 1 include the establishment of CHAPCs in which the use of bottom damaging fishing gear would be prohibited. These CHAPCs would protect what is currently believed to be the largest distribution (>60,000 square kilometers; >23,000 square miles) of deepwater coral ecosystems in the world. Currently, these areas are relatively undisturbed by the impacts of fishing. The underlying need for this action is to protect deepwater coral ecosystems in the Council's jurisdiction, which are currently thought to be in pristine condition, from future activities that could compromise their condition. Failure to establish and protect these deepwater coral habitats may create negative biological impacts on the deepwater coral ecosystem and associated fauna if destructive fishing practices develop and expand into the deepwater coral ecosystems. CE-BA 1

includes alternatives to determine which areas in the South Atlantic to designate as CHAPCs.

Currently, the only commercial fisheries that operate in the areas are the wreckfish, golden crab, and deepwater shrimp fisheries. The amendment includes alternatives that would allow creation of "allowable golden crab fishing areas" and "shrimp fishery access areas" that would allow these fisheries to continue with little or no negative impacts to deepwater coral ecosystems. The wreckfish fishery would not be impacted by the designations of the CHAPCs.

CE-BA 1 would also address the need for spatial representations of previously designated EFH and EFH-HAPCs. Thus, this document proposes to amend the following fishery management plans (FMPs) to include such EFH and EFH-HAPC spatial information: Coral FMP; CMP FMP; Shrimp FMP; Golden Crab FMP; Spiny Lobster FMP; Dolphin-Wahoo FMP; and the Snapper-Grouper FMP.

The amendment contains alternatives for monitoring the golden crab fishery within the proposed CHAPCs. The Council has selected the "no action" alternative as preferred for this action due to concerns with feasibility and enforcement.

The Council has submitted CE-BA 1 for Secretarial review, approval and implementation. NMFS's decision to approve, partially approve or disapprove CE-BA 1 will be based, in part, on consideration of comments, recommendations, and information received during the comment period on this NOA. A proposed rule will be published in the **Federal Register** for public comment. After considering public comment on the NOA, and consistency with the Magnuson-Stevens Act and other applicable laws, NMFS will publish a notice of agency action in the **Federal Register** announcing the Agency's decision to approve, partially approve or disapprove CE-BA 1, and the associated rationale. If approved, the provisions of CE-BA 1 would be specified in a final rule published in the **Federal Register**.

**Consideration of Public Comments**

Public comments received by 5 p.m. eastern time on May 3, 2010 will be considered by NMFS in the approval/disapproval decision regarding CE-BA 1.

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

Dated: February 26, 2010.

**James P. Burgess,**

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

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