TABLE 1.—OPTIONS FOR THE INSIGNIFICANCE THRESHOLD—Continued

Option	Option 1 10 percent of PBR	Option 2 10 percent Delay in Recovery	Option 3 0.1 percent Nmin[1] (cetaceans); 0.3 percent Nmin (pinnipeds)
	Consistent with current definition for Category III fishery, such that the List of Fisheries would provide an easy metric for which fisheries have met T_{ins}.	Consistent with the Marine Mammal Commission's recommendation for determining ''negligible impact'' related to the take of threatened or endangered marine mammals[3].	Consistent with ETP dolphin standard for T_{ins}, which is an ''insignificant'' metric specifically defined by Congress
	.....	Consistent application across all stocks because the recovery factor is set as the same number for all stocks..	Consistent application across all stocks because the recovery factor is set as the same number for all stocks
	.....	.....	T_{ins} is always less than PBR level
	.....	.....	Would allow for flexibility in relationship between T_{ins} and negligible impact under 101(a)(5)(E), such that negligible impact could be greater or less than T_{ins} depending on population parameters circumstances
Cons	May lead to overly conservative levels of protection for certain endangered species, whose PBR levels are already set at biologically insignificant levels.	For endangered species, T_{ins} = PBR level, which may be perceived as providing less protection for endangered stocks than for other stocks, even though the PBR for endangered stocks is already set at biologically insignificant levels.	May be perceived as providing less protection for endangered stocks than for other stocks, even though it reduces the PBR for endangered species (already insignificant due to the use of a recovery factor or 0.1) by 50 percent
	.....	Not consistent with the definition of a Category III fishery, such that the definition of a Category III fishery on the List of Fisheries would need to be changed to provide an easy metric for which fisheries have met T_{ins}.	May be too restrictive for stocks at their optimum sustainable population level by setting the T_{ins} for such stocks at 5 percent of their PBR level.
	.....	Does not allow for flexibility in the relationship between T_{ins} and section 101(a)(5)(E) of the MMPA, such that other population parameters could not be taken into account in making a negligible impact determination, potentially making it illegal for certain fisheries to operate.	

NUMBER OF CATEGORY I AND II FISHERIES INTERACTING WITH ONE OR MORE STOCKS OF MARINE MAMMALS FOR WHICH INCIDENTAL MORTALITY EXCEEDS T_{ins}

Atlantic	18	18	18
Pacific	8	8	8
Alaska	13	3	6

NUMBER OF MARINE MAMMAL STOCKS FOR WHICH INCIDENTAL MORTALITY EXCEEDS T_{ins}

Atlantic	15	13	14
Pacific	11	8	10
Alaska	6	2	4

1. Nmin is an abbreviation for the minimum estimated abundance for a population stock of marine mammals.

2. The calculations for estimating the delay in recovery were based upon the PBR equation and NMFS's default values for one-half of the maximum net productivity rate (Rmax). For pinnipeds the default value for one-half of Rmax is 6 percent, and for cetaceans, the default value is 2 percent.

3. Marine Mammal Commission, Recommended Guidelines to Govern the Incidental taking of marine mammals in the Course of Commercial Fishing Operations after October 1993, July 1990, at 30.

Dated: July 1, 2003.

Rebecca Lent,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 600

[I.D. 062703B]

Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permits (EFPs)

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

ACTION: Notification of a proposal for EFPs to conduct experimental fishing; request for comments.

SUMMARY: NMFS announces that the Administrator, Northeast Region, NMFS (Regional Administrator) has made a preliminary determination that an application to issue EFPs for up to 100 commercial lobster vessels, submitted by the Maine Department of Marine Resources (MEDMR), contains all the information required by the regulations governing exempted experimental fishing under the provisions of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and, therefore, warrants further consideration. The Regional Administrator has also made a preliminary determination that the activities authorized under these EFPs would be consistent with the goals and objectives of the American lobster (lobster) fishery under the Atlantic Coastal Fisheries Cooperative Management Act (ACFCMA) and is

within the scope of earlier analyses of the impacts. However, further review and consultation may be necessary before a final determination is made to issue 100 EFPs. Therefore, NMFS announces that the Regional Administrator has made a preliminary decision to issue EFPs that would allow up to 100 current federally permitted lobster and/or Maine state lobster/crab license-holders to conduct fishing operations otherwise restricted by the regulations governing the lobster fishery.

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

DATES: Comments on this notification must be received on or before July 24, 2003.

ADDRESSES: Written comments should be sent to Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope ''Comments on MEDMR Jonah crab EFP Proposal.'' Comments may also be sent via facsimile to (978) 281–9135. Comments will not be accepted if submitted via e-mail or the Internet.

Copies of the Draft 2003 Amendment to the Environmental Assessment (EA) prepared for the 2003/2004 Experimental Jonah Crab Fishery in Exclusive Economic Zone (EEZ) Nearshore Lobster Management Area 1, as well as the May 2002 environmental assessment that it amends are available from the Northeast Regional Office at the same address.

FOR FURTHER INFORMATION CONTACT: Bonnie Van Pelt, Fishery Policy Analyst, 978–281–9244.

SUPPLEMENTARY INFORMATION: NMFS announces that the Regional Administrator intends to issue EFPs to allow up to 100 commercial lobster vessels to use up to 200 modified lobster traps per vessel to target Jonah crabs (*Cancer borealis*) within the EEZ portion of Nearshore Lobster Management Area 1 (NLMA1). The EFPs would facilitate the collection of data on modified lobster trap designs (side-entry and top-entry) to establish acceptable lobster bycatch thresholds and allow for the development of an exempted, species-specific Jonah crab trap. Specifically, the EFPs would allow these vessels to fish 200 traps above their 800–trap allocation and exempt them from the lobster fishery regulations at 50 CFR part 697: (1) Permit, tagging, and trap limit requirements under § 697.4(a) and (d), and § 697.19(a)(2) and (c); (2) temporary possession of lobster less than the minimum carapace size specified at § 697.20(b)(1) and (2) for data collection purposes; (3) trap tag identification requirements at § 697.21(a)(2); and (4) deployment and gear configuration requirements at § 697.21(b)(2).

The MEDMR submitted a request for a renewal of the 2002/2003 Jonah crab experiment on March 10, 2003. Additional information and data required to supplement the application was received on June 10, 2003. The original application anticipated the need for 2 additional years beyond the first year in order to gauge the effectiveness of the gear modifications and collect the data necessary to support a potential permanent exemption to the lobster gear regulations. Along with the bycatch reduction objective, complementary goals of the EFP would be to: (1) contribute to the development of year-round Jonah crab markets; (2) provide additional economic opportunities for lobster and crab fishermen who are currently being held to a maximum trap limit; and (3) provide important biological and demographic data on the Jonah crab resource, thus contributing to baseline information on the Jonah crab life cycle and population structure.

The proposed experimental fishery would take place from September 15, 2003, to September 15, 2004, in the EEZ portion of NLMA1 described at 50 CFR 697.18(a)(1). The proposed EFP would require that the experimental gear employ escape vents that are larger (and in greater numbers) than standard lobster traps. The side- and top-entry trap dimensions would be the same as that which was authorized for the initial EFP.

Comparing the top-entry, side-entry, and standard lobster trap designs, the MEDMR logbook data thus far suggest that a modified side-entry trap may be the best design for targeting Jonah crabs with negligible lobster bycatch (and other regulated species), indicating that the proposed experimental traps are extremely selective for the targeted species. There were 88 sublegal and 17 legal lobster caught in 3,360 side-entry trap hauls (3,900 total experimental trap hauls thus far). All lobster bycatch was returned to the sea alive. The catch of Jonah crabs under the EFP was small when contrasted with Maine landings in the crab fishery as a whole (approximately 36,000 lb (7257 kg) of Jonah crabs caught under the EFP with 9.5 million lb (4309 mt) caught overall--0.4 percent of the total landings).

All lobsters caught incidentally to the catch of Jonah crabs, as well as all crabs smaller than the MEDMR minimum size of 5 inch (127 mm) carapace width, and all other bycatch, would continue to be returned to the sea promptly after data collection. The MEDMR remains committed to providing the same level of observer coverage as in the previous year's experiment (2 trips per month). Observer data would continue to complement the information collected by participants through the MEDMR-supplied logbooks, along with detailed fisheries information (e.g., bycatch information, molt condition, etc.).

The August 13, 2002, Biological Opinion on the Jonah crab EFP analyzed impacts on protected resources over the anticipated time frame of the experiment (1 year initially and renewal for 2 additional years). The Reasonable and Prudent Alternative (RPA) that was developed for this fishery as a result of the consultation (neutrally buoyant line on all experimental traps during the June-October time frame) would remain in effect during the 2003/2004 EFP. As was the case previously, EFP participants would be required to comply with the Atlantic Large Whale Take Reduction Plan requirements in effect at the time of the experiment. The 2002/2003 EFP had the potential to deploy 2,000 additional vertical lines, assuming an additional 20,000 traps (200 traps x 100 participants) with a 10–trap minimum per vertical line. In 2002–2003, actual participation levels were 15 percent of the authorized maximum and the number of traps set per fisher ranged from 20–100 experimental traps. No interactions with protected species or marine mammals were reported during the 2002/2003 EFP. The proposed EFP would not represent a change or redistribution of effort, therefore further consultation is not necessary.

The EA prepared for the 2002 Jonah crab EFP concluded that the activities conducted under the 2002/2003 EFP were consistent with the goals and objectives of the lobster fishery under the ACFCMA and would have no negative environmental impacts including impacts to essential fish habitat, marine mammals, and protected species. The draft 2003 Amendment to the 2002 EA makes a preliminary determination that the proposed experimental fishery, including cumulative effects, would not significantly affect the quality of the human environment.

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

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

Dated: July 3, 2003.

Bruce C. Morehead,

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

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