

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 635****[I.D. 112403A]****Atlantic Highly Migratory Species; Supplemental Environmental Impact Statement (SEIS) for Sea Turtle Bycatch Mitigation in the Atlantic Pelagic Longline Fishery**

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

ACTION: Notice of intent (NOI) to prepare an SEIS; request for comments.

SUMMARY: NMFS announces its intent to prepare an SEIS under the National Environmental Policy Act to assess the potential effects on the human environment of proposed alternatives and actions under a proposed rule to reduce sea turtle bycatch in the Atlantic pelagic longline fishery. The SEIS is intended to address issues regarding allowable fishing gears and techniques in the pelagic longline fishery; possession and use of onboard equipment to minimize sea turtle bycatch and bycatch mortality; modification of time and area closures; and minimum levels of observer coverage. NMFS is requesting comments on the above measures.

DATES: Comments on this action must be received no later than 5 p.m., local time, on December 29, 2003.

ADDRESSES: Written comments on this action should be mailed to Christopher Rogers, Chief, Highly Migratory Species Management Division, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910; or faxed to (301) 713-1917. Comments will not be accepted if submitted via email or Internet.

FOR FURTHER INFORMATION CONTACT: Russell Dunn, Rick Pearson, or Greg Fairclough at (727) 570-5447.

SUPPLEMENTARY INFORMATION: The Atlantic pelagic longline fishery for Atlantic HMS primarily targets swordfish, yellowfin tuna, and bigeye tuna in various areas and seasons. The Atlantic tuna, swordfish, and billfish fisheries are managed under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and the Atlantic Tunas Convention Act. The Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks (HMS

FMP) is implemented by regulations at 50 CFR part 635.

Background

On June 14, 2001, NMFS released a Biological Opinion (BiOp) that found that the continued operation of the Atlantic pelagic longline fishery is likely to jeopardize the existence of Atlantic leatherback and loggerhead sea turtles. To avoid jeopardy, the Reasonable and Prudent Alternative (RPA) in the BiOp included a closure of the Northeast Distant (NED) Statistical Area of the Atlantic Ocean and a research program to develop or modify fishing gear and techniques to reduce sea turtle interactions and the mortality associated with such interactions.

As a result of this RPA, NMFS closed the NED (67 FR 45393, July 9, 2002) and undertook a 3-year (2000-2003) experiment in the NED intended to identify fishing gear and technique modifications that may reduce sea turtle interactions. The experiment examined various hook and bait combinations (treatments). Preliminary data suggest the treatments examined may reduce sea turtle interactions by between 50 and 92 percent, depending on species and treatment, and appear to have widely varying impacts, both positive and negative, on target species. Among the hook and bait combinations tested were: 18/0 offset circle hooks using squid as bait, 18/0 offset circle hooks using mackerel as bait, 18/0 non-offset circle hooks using squid as bait, and 9/0 J-hooks using mackerel as bait. NMFS is currently evaluating data from the final year of the experiment and will analyze that data as appropriate.

Based on preliminary data and a review of the current status of the species, NMFS is considering implementing various management measures to reduce sea turtle takes in the Atlantic pelagic longline fishery, including, but not limited to: modification of fishing gears and techniques in the pelagic longline fishery; possession and use of on-board equipment to minimize sea turtle bycatch and bycatch mortality; modification of time and area closures; and increased minimum levels of observer coverage.

Hook and Bait Combinations

Vessels participating in the pelagic longline fishery are currently required to use non-stainless steel corrodible hooks during fishing operations. Vessels participating in this fishery in the Gulf of Mexico are also prohibited from using live bait in the western Gulf of Mexico. NMFS may examine the mandatory use of various hook and bait combinations,

as evaluated in the NED experiment, as a potential means of reducing sea turtle bycatch.

Area Closures

There are currently five distinct area closures intended to reduce bycatch in the Atlantic pelagic longline fishery, only one of which, the Northeast Distant Statistical area, was specifically intended to address sea turtle bycatch. Current area closures include: the Northeast Distant Statistical Area, closed year-round; the Northeastern United States, closed during the month of June; the Charleston Bump, closed February through April; the East Florida Coast, closed year-round; and, the DeSoto Canyon, closed year-round. NMFS may examine additional and or modifications to existing area closures as a potential means of reducing sea turtle bycatch.

Onboard Bycatch Mitigation

NMFS currently requires pelagic longline vessels to possess and use a variety of equipment to mitigate sea turtle bycatch and bycatch mortality. These include: turtle handling procedures that must be posted in the wheel house; line cutters; and dipnets. NMFS may consider additional gear possession and use requirements, such as dehooking equipment, or moving one nautical mile after an interaction, as a potential means of reducing sea turtle bycatch.

Observer Coverage

The June 14, 2001, BiOp and Recommendations from the International Commission for the Conservation of Atlantic Tunas both require a minimum of five-percent observer coverage in the Atlantic pelagic longline fishery. NMFS may examine the possibility of increasing minimum observer coverage levels in this fishery to improve the quality and quantity of data on bycatch of turtles and other species.

Pelagic Longline Definition

In addition, NMFS is considering possible clarifications of either the pelagic or bottom longline definition.

Request for Comments

NMFS requests comments on management options for this action. Specifically, NMFS requests comments on the following issues and possible options to reduce sea turtle bycatch and bycatch mortality: modification of fishing gears and techniques in the pelagic longline fishery, area closures, onboard bycatch mitigation, and minimum observer coverage levels.

NMFS will proceed with preparation of a draft SEIS and proposed rule, incorporating comments received during the comment period associated with this NOI as appropriate. The draft EIS and proposed rule will include additional opportunities for public comment. NMFS anticipates completing this amendment and any related documents by June 1, 2004.

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

Dated: November 25, 2003.

Richard W. Surdi,

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

[Docket No. 031119283-3283-01; I.D. 110703A]

RIN 0648-AQ80

Fisheries of the Northeastern United States; Summer Flounder, Scup, and Black Sea Bass Fisheries; 2004 Specifications; 2004 Research Set-Aside Projects

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes specifications for the 2004 summer flounder, scup, and black sea bass fisheries. The implementing regulations for the Fishery Management Plan for the Summer Flounder, Scup, and Black Sea Bass Fisheries (FMP) require NMFS to publish specifications for the upcoming fishing year for each of the species and to provide an opportunity for public comment. NMFS requests comment on proposed management measures for the 2004 summer flounder, scup, and black sea bass fisheries. The intent of this action is to establish 2004 harvest levels and other measures to attain the target fishing mortality (F) or exploitation rates, as specified for these species in the FMP. In addition, NMFS has conditionally approved three research projects for the harvest of the quota that has been recommended by the Council to be set aside for research purposes. In anticipation of receiving applications for Experimental Fishing Permits (EFPs) to conduct this research, the Assistant

Regional Administrator for Sustainable Fisheries, Northeast Region, NMFS (Assistant Regional Administrator), has made a preliminary determination that the activities authorized under the EFPs issued in response to the approved Research Set-Aside (RSA) projects would be consistent with the goals and objectives of the FMP. However, further review and consultation may be necessary before a final determination is made to issue any EFP.

DATES: Comments on this proposed rule must be received on or before December 15, 2003.

ADDRESSES: Copies of the specifications document, including the Environmental Assessment, Regulatory Impact Review, and Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) and other supporting documents for the specifications are available from Daniel Furlong, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South Street, Dover, DE 19901-6790. The specifications document is also accessible via the Internet at <http://www.mafmc.org>. Written comments on the proposed rule 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—2004 Summer Flounder, Scup, and Black Sea Bass Specifications." Comments may also be sent via facsimile (fax) to (978) 281-9135. Comments will not be accepted if submitted via e-mail or the Internet.

FOR FURTHER INFORMATION CONTACT: Sarah McLaughlin, Fishery Policy Analyst, (978) 281-9279, fax (978) 281-9135, e-mail sarah.mclaughlin@noaa.gov.

SUPPLEMENTARY INFORMATION:

Background

The summer flounder, scup, and black sea bass fisheries are managed cooperatively by the Atlantic States Marine Fisheries Commission (Commission) and the Mid-Atlantic Fishery Management Council (Council), in consultation with the New England and South Atlantic Fishery Management Councils. The management units specified in the FMP include summer flounder (*Paralichthys dentatus*) in U.S. waters of the Atlantic Ocean from the southern border of North Carolina (NC) northward to the U.S./Canada border, and scup (*Stenotomus chrysops*) and black sea bass (*Centropristis striata*) in U.S. waters of the Atlantic Ocean from 35°13.3' N. lat. (the latitude of Cape Hatteras Lighthouse, Buxton, NC)

northward to the U.S./Canada border. Implementing regulations for these fisheries are found at 50 CFR part 648, subparts A, G (summer flounder), H (scup), and I (black sea bass).

The regulations outline the process for specifying annually the catch limits for the summer flounder, scup, and black sea bass commercial and recreational fisheries, as well as other management measures (e.g., mesh requirements, minimum fish sizes, gear restrictions, possession restrictions, and area restrictions) for these fisheries. The measures are intended to achieve the annual targets set forth for each species in the FMP, specified either as an F rate or an exploitation rate (the proportion of fish available at the beginning of the year that are removed by fishing during the year). Once the catch limits are established, they are divided into quotas based on formulas contained in the FMP.

As required by the FMP, a Monitoring Committee for each species, made up of members from NMFS, the Commission, and both the Mid-Atlantic and New England Fishery Management Councils, is required to review annually the best available scientific information and to recommend catch limits and other management measures that will achieve the target F or exploitation rate for each fishery. The Council's Demersal Species Committee and the Commission's Summer Flounder, Scup, and Black Sea Bass Management Board (Board) then consider the Monitoring Committees' recommendations and any public comment and make their own recommendations. While the Board action is final, the Council's recommendations must be reviewed by NMFS to assure that they comply with FMP objectives. The Council and Board made their annual recommendations at a joint meeting held August 4-7, 2003.

Explanation of Research Set-Aside

In 2001, regulations were implemented under Framework Adjustment 1 to the FMP to allow up to 3 percent of the Total Allowable Landings (TAL) for each of the species to be set aside each year for scientific research purposes. For the 2004 fishing year, a Request for Proposals was published in January 2003 to solicit research proposals based upon the research priorities that were identified by the Council (68 FR 3864, January 27, 2003). The deadline for submission of proposals was March 28, 2003. Three applicants were notified in August 2003 that their research proposals had received favorable preliminary review. For informational purposes, this proposed rule includes a statement