



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
NORTHEAST REGION
One Blackburn Drive
Gloucester, MA 01930-2298

December 18, 2006

AMERICAN LOBSTER
ADVANCE NOTICE OF PROPOSED RULEMAKING

Today, NOAA's National Marine Fisheries Service (NMFS) published in the Federal Register an Advance Notice of Proposed Rulemaking (ANPR) regarding Federal American lobster management in the Exclusive Economic Zone (EEZ). NMFS announces that it is considering and seeking public comment on the implementation of further minimum carapace length (gauge) increases, escape vent size increases, and trap reductions in the offshore American lobster fishery, consistent with recommendations for Federal action in the Atlantic States Marine Fisheries Commission's (Commission) Interstate Fishery Management Plan for American Lobster (ISFMP) and pending management actions of the Commission's American Lobster Management Board (Board).

A similar announcement, published in the Federal Register on December 13, 2005 (70 FR 73717), notified the public that NMFS was considering and requesting comment on gauge and escape vent size increases in multiple lobster conservation management areas (LCMAs). However, since the publication of that notice, many LCMA-specific Commission recommendations were modified in response to information in an updated peer-reviewed stock assessment published January 2006. Subsequent Commission deliberations resulted in the Board making changes to the fishery management plan, adding and repealing measures, such that many of the newer plan elements focused primarily on LCMA 3. Some measures relevant to this action, still under Board consideration, are included within the scope of this rulemaking.

Accordingly, NMFS announces that this present ANPR revises the December 13, 2005, ANPR and invites public comment on changes to the ISFMP, either formally approved by the Board or pending approval. Any repealed measures, having previously been raised in the December 13, 2005, ANPR, will remain within the scope of this present ANPR, although the Board's repeal is notable and NMFS invites comment on the Board's withdrawal of the measures.

A complete copy of the ANPR follows (3 pages). Written comments will be accepted until 5 p.m. Eastern Standard Time on or before Wednesday, January 17, 2007.

Mail Comments to:

Harold C. Mears, Director
State, Federal and Constituent Programs Office
NMFS, Northeast Region
One Blackburn Drive
Gloucester, MA 01930

E-mail comments to: Lob1106@noaa.gov. Subject line "Lobster ANPR Comments"; or via the Federal e-Rulemaking Portal at www.regulations.gov.

FAX Comments to: (978) 281-9117

Attachment



8161; e-mail address:
jones.robert@epa.gov.

SUPPLEMENTARY INFORMATION: This document extends the public comment period established in the **Federal Register** issued on October 20, 2006 (71 FR 61926) (FRL-8081-3). In that document, EPA proposed to require testing for certain chemicals on the ATSDR/EPA Priority List of Hazardous Substances which is compiled under the Comprehensive Environmental Response Compensation and Liability Act (CERCLA), and solicited proposals for enforceable consent agreements (ECAs). EPA proposed the test rule under section 4(a) of the Toxic Substances Control Act (TSCA) that would require manufacturers (including importers) and processors of four chemical substances (chloroethane, hydrogen cyanide, methylene chloride, and sodium cyanide) to conduct testing for certain health effects relating to the manufacture, distribution in commerce, processing, use, or disposal of these substances. The data that would be obtained under the testing program are intended to be used to address health effects data needs identified by ATSDR and EPA for these substances, which are among the hazardous substances most frequently found at sites listed on the CERCLA National Priorities List (NPL) and which are also hazardous air pollutants (HAPs) under section 112 of the Clean Air Act (CAA). EPA solicited proposals for ECAs involving the conduct of physiologically based pharmacokinetics (PBPK) studies as an alternative to the testing proposed in the rule, as appropriate. Alternatively, if ECA proposals involving the conduct of PBPK studies are not received, or if received, are not considered by the Agency to be adequate, EPA may consider ECA proposals which cover some or all of the testing identified for a given chemical in this proposed rule.

EPA is hereby extending the comment period on the proposed rule, which was set to end on December 19, 2006, to March 19, 2007. This extension is being made as a result of a request by a member of the public for additional time to submit comments.

Please go to the proposed rule to review the details of the Agency's proposed action and follow the instructions provided in the proposed rule for how to comment. To view the electronic docket for this proposed rule and submit comments on-line, please go to <http://www.regulations.gov>. The docket identification number of this action is EPA-HQ-OPPT-2002-0073.

List of Subjects in 40 CFR Part 799

Environmental protection, Chemicals, Hazardous substances, Laboratories, Reporting and recordkeeping requirements.

Dated: December 12, 2006.

Susan B. Hazen,

Acting Assistant Administrator, Office of Prevention, Pesticides and Toxic Substances.

[FR Doc. E6-21494 Filed 12-15-06; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 697

[Docket No. 051129315-6314-02; I.D. 112505A]

RIN 0648-AU07

Atlantic Coastal Fisheries Cooperative Management Act Provisions; American Lobster Fishery

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

ACTION: Advance notice of proposed rulemaking (ANPR); request for comments.

SUMMARY: NMFS announces that it is considering and seeking public comment on the implementation of further minimum carapace length (gauge) increases, escape vent size increases, and trap reductions in the offshore American lobster fishery, consistent with recommendations for Federal action in the Atlantic States Marine Fisheries Commission's (Commission) Interstate Fishery Management Plan for American Lobster (ISFMP) and pending management actions of the Commission's American Lobster Management Board (Board). A similar announcement, published in the **Federal Register** on December 13, 2005, notified the public that NMFS was considering and requesting comment on gauge and escape vent size increases in multiple lobster conservation management areas (LCMAs). However, since the publication of that document, many LCMA-specific Commission recommendations were modified in response to information in an updated peer-reviewed stock assessment published January 2006. Subsequent Commission deliberations resulted in the Board making changes to the fishery management plan, adding and repealing measures, such that many of the newer

plan elements focused primarily on LCMA 3. Some measures relevant to this action, still under Board consideration, are included within the scope of this rulemaking. Accordingly, NMFS announces that this present ANPR revises the December 13, 2005, ANPR and invites public comment on changes to the ISFMP, either formally approved by the Board or pending approval. Any repealed measures, having previously been raised in the December 13, 2005, ANPR, will remain within the scope of this present ANPR, although the Board's repeal is notable and NMFS invites comment on the Board's withdrawal of the measures.

DATES: Comments must be received by January 17, 2007.

ADDRESSES: Written comments should be sent to Harold Mears, Director, State, Federal and Constituent Programs Office, Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930. Comments may also be sent via e-mail to Lob1106@noaa.gov, via fax (978) 281-9117 or via the Federal e-Rulemaking portal at www.regulations.gov.

FOR FURTHER INFORMATION CONTACT: Peter Burns, Fishery Management Specialist, (978) 281-9144, fax (978) 281-9117, e-mail peter.burns@noaa.gov.

SUPPLEMENTARY INFORMATION:

Scope of This ANPR

With respect to the scope of this action, additional management measures are identified for LCMA 3 that have yet to be proposed or implemented by NMFS. These include: four additional 1/32 inch (0.08 centimeters (cm)) gauge increases that would result in a 3 1/2 inch (8.89-cm) minimum gauge size requirement for LCMA 3 by July 1, 2008; and escape vent size increases in LCMA 3 to 2 1/16 inches X 5 3/4 inches rectangular (5.24 cm X 14.61 cm) or two circular vents at 2 11/16 inches diameter (6.83 cm) by July 1, 2010. Additionally, NMFS also is considering a suite of trap reductions in LCMA 3. First, Addendum IV to Amendment 3 of the ISFMP calls for a 10-percent active trap reduction implemented over two consecutive years with a scheduled 5-percent reduction for 2007 and a 5-percent reduction in 2008. To address the need for further fishing mortality and fishing effort reductions in the offshore fishery as identified in the updated stock assessment released in 2005, the Board is developing an addendum to consider an additional 5-percent reduction in traps in LCMA 3 to be implemented as a 2.5-percent reduction each year for two consecutive years following the

initial 10-percent active trap reduction. The two 2.5-percent reductions have not been included as part of the ISFMP, but are in an addendum being drafted for review by the Board, and consequently, NMFS includes this measure for public consideration. Table 1 illustrates the LCMA 3 gauge increases, escape vent size increases and the 10-percent trap reductions currently recommended in the ISFMP for Federal implementation. Also included in the table are the two additional 2.5-percent trap reductions for LCMA 3 pending Board adoption. Although not officially part of the ISFMP, these pending trap reductions are included within the scope of this ANPR because they are relevant to the 10-percent reductions already adopted into the ISFMP and recommended for Federal implementation.

Several management measures previously included in the ISFMP and

addressed in a previous NMFS ANPR, published in the **Federal Register** on December 13, 2005 (70 FR 73717), have since been repealed by the Board based on an updated American lobster stock assessment approved in January 2006. The updated stock assessment indicated stable stock abundance for the Georges Bank and majority of the Gulf of Maine stocks. However, decreased stock abundance and recruitment due to high fishing mortality were evident in the assessment of the Southern New England stock and the statistical area 514 portion of the Gulf of Maine stock that includes Massachusetts Bay and Stellwagen Bank. Upon review of these findings, the Board determined that many of the additional gauge increases and escape vent size increases were not necessary for conservation and, with the exception for those in LCMA 3, were repealed. The repealed measures

include the additional escape vent size increase for LCMA 1 (2 inches X 5 3/4 inches (5.08 cm X 14.61 cm) rectangular or 2 5/8 inches (6.67 cm) circular by 2008); in the Outer Cape Cod LCMA, four additional 1/32 inch-(0.08-cm) gauge increases up to 3 1/2 inches (8.89 cm) by July 2008 and an escape vent increase to 2 1/16 inches X 5 3/4 inches (5.24 cm X 14.61 cm) rectangular or 2 11/16 inches (6.83 cm) circular by 2008. Recommendations for delay in the LCMA 3 escape vent size increase until 2010, is included in draft Addendum XI to Amendment 3 of the ISFMP, scheduled for Board review in January 2007. NMFS invites the public to comment on the revised management scenario and extends the scope of this ANPR to include the measures subsequently withdrawn by the Board as well, given their potential impacts on the resource and industry.

TABLE 1. AMERICAN LOBSTER ISFMP GAUGE, ESCAPE VENT AND TRAP REDUCTION SCHEDULE FOR LCMA 3 AND CORRESPONDING FEDERAL ACTION (INCLUDES ONLY THE MEASURES CURRENTLY RECOMMENDED IN THE ISFMP FOR FEDERAL IMPLEMENTATION AND RELEVANT TRAP REDUCTIONS PENDING BOARD ADOPTION).

[Measurements are in inches]

LCMA	Addenda II-VIII			Current Federal Lobster Regulations		This ANPR Considers		
	gauge	vent*	trap reductions	gauge	vent*	gauge	vent*	trap reductions**
LCMA3	3 3/8 July 2004 3 13/32 July 2005 3 7/16 July 2006 3 15/32 July 2007 3 1/2 July 2008	2 X 5 3/4 rectangular or 2 5/8 circular by 2004 2 1/16 X 5 3/4 rectangular or 2 11/16 circular by 2008	5% in 2007 5% in 2008	3 3/8	2 X 5 3/4 rectangular or 2 5/8 circular	3 13/32 3 7/16 3 15/32 3 1/2 by 2008	2 1/16 X 5 3/4 rectangular or 2 11/16 circular by 2010	5% in 2007 5% in 2008 2.5% in 2009 2.5% in 2010

* All vent sizes include a rectangular and corresponding circular vent size. In all cases, each trap is required to have one rectangular vent or two circular vents at the sizes indicated. The ANPR considers a proposed action by the Board to postpone the escape vent increase for LCMA 3 until 2010.

** The two 5% trap reductions scheduled for 2007 and 2008 were established in Addendum IV; the two 2.5% reductions are being considered in this ANPR, concurrent with Board review.

Background and Description of Relevant ISFMP Actions

Addenda I through IX are part of an overall lobster fishery management regime set forth in Amendment 3 to the ISFMP. The intent of Amendment 3, approved by the Board in December 1997, is to achieve a healthy American lobster resource and to develop a management regime that provides for sustained harvest, maintains opportunities for participation, and provides for the cooperative development of conservation measures by all stakeholders. In short, Amendment 3 was envisioned to provide much of the framework upon

which future lobster management - to be set forth in later addenda - would be based. In particular, Amendment 3 employed a participatory management approach by creating the seven lobster management areas, each with its own lobster conservation management team (LCMT) comprised of industry members. Amendment 3 tasked the LCMTs with providing recommendations for area-specific management measures to the Board to meet the lobster egg production and effort reduction goals of the ISFMP. NMFS has the authority under the Atlantic Coastal Fisheries Cooperative Management Act (ACFCMA) to implement regulations in Federal waters

that are compatible with the effective implementation of the ISFMP and consistent with the national standards of the Magnuson-Stevens Fishery Conservation and Management Act. These Federal regulations are promulgated pursuant to the ACFCMA and are codified at 50 CFR part 697.

Addendum I to Amendment 3 focused largely on effort control measures. The Board approved Addendum I in August 1999, with NMFS promulgating compatible regulations on March 27, 2003 (68 FR 14902). This action, in part, established a limited access program in the lobster trap fishery in LCMA 3, 4 and 5, based on historical participation and additional sliding scale trap

reductions in LCMA 3 through 2006. The Board approved Amendment 3's egg production measures as Addenda II and III in February 2001 and February 2002, respectively, and recommended that NMFS implement complementary Federal regulations. In response, NMFS published a final rule on March 14, 2006 (71 FR 13027), implementing multiple management measures, including a gauge increase and escape vent size increase in all LCMAs, except LCMA 1, to 3 3/8 inches (8.57 cm) and 2 X 5 3/4 inches (5.08 X 14.61 cm), respectively. In December 2003, the Board approved Addendum IV which, in part, included additional egg production measures. One such measure, the sliding scale trap reduction plan, was adopted to facilitate additional active trap reductions in LCMA 3 by 10 percent by imposing a 5-percent trap reduction in both 2007 and 2008. The 10-percent trap reduction is part of the suite of measures considered in this ANPR. Addenda V and VI did not include any further measures

pertinent to egg production and therefore, are not included within the scope of this ANPR but are being addressed in a separate rulemaking action. Addendum VII, approved by the Board in November 2005, facilitates effort control measures and constitutes a limited access program for the lobster trap fishery in the state waters of LCMA 2, based on historical participation, with recommendations for complementary actions in the Federal waters of LCMA 2. In approving Addendum VII, the Board opted not to continue with the previously adopted schedule of minimum carapace length increases up to 3 1/2 inches (8.89 cm) in LCMA 2 (Addendum III) and voted to maintain the minimum legal carapace length (gauge) at 3 3/8 inches (8.57 cm). Following the updated stock assessment results, at a meeting in May 2006, the Board rescinded gauge increases beyond 3 3/8 inches (8.57 cm), and a complementary escape vent increase in the Outer Cape LCMA, and an escape vent increase in LCMA 1. Addendum

VIII, adopted by the Board in May 2006, established new data collection requirements and adopted new biological reference points to facilitate the assessment of the lobster resource. NMFS will address the data collection issue in a separate rulemaking outside the scope of this ANPR. Addendum IX, adopted by the Board in October 2006, will impose a 10-percent conservation tax on the sale of lobster traps in LCMA 2.

Classification

This ANPR has been determined to be not significant for the purposes of Executive Order 12866.

Authority: 16 U.S.C. 5101 *et seq.*

Dated: December 11, 2006.

Samuel D. Rauch III,

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

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