

H-4888, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington, DC 20230 (or via e-mail to [cbeck@ntia.doc.gov](mailto:cbeck@ntia.doc.gov)).

#### SUPPLEMENTARY INFORMATION:

##### I. Abstract

The purpose of the Public Telecommunications Facilities Program is to assist, through matching funds, in the planning and construction of public telecommunications facilities in order to achieve the following objectives:

- Extend delivery of public telecommunications services to as many citizens in the United States as possible by the most efficient and economical means, including the use of broadcast and nonbroadcast technologies;
- Increase public telecommunications services and facilities available to, operated by, and owned by minorities and women; and
- Strengthen the capability of existing public radio and television stations to provide public telecommunications services to the public.

The reports submitted by the grantees include:

- Construction schedule/planning timetable (one time).
- Performance reports (quarterly).
- Close-out materials after completion of the project (one time).
- Annual reports for the duration of the government's interest in the equipment (annually for a ten-year period).

##### II. Method of Collection

The reports may be submitted by mail, fax, or the Internet (beginning in FY 2010, all reports will be submitted over the Internet).

##### III. Data

*OMB Control Number:* 0660-0001.

*Form Number:* None.

*Type of Review:* Regular submission.

*Affected Public:* Not-for-profit institutions, state or local government agencies.

*Estimated Number of Total*

*Respondents:* 1,940.

*Estimated Time Per Response:* 2 hours and 30 minutes.

*Estimated Total Annual Burden*

*Hours:* 5,080.

*Estimated Total Annual Cost to the Public:* \$0.

##### IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden

(including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, *e.g.*, the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of the information collection. Comments will also become a matter of public record.

Dated: June 9, 2009.

**Gwellnar Banks,**

*Management Analyst, Office of the Chief Information Officer.*

[FR Doc. E9-13805 Filed 6-11-09; 8:45 am]

**BILLING CODE 3510-60-P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-331-802]

#### Certain Frozen Warmwater Shrimp from Ecuador: Notice of Extension of Time Limit for the Final Results of the Third Administrative Review

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**EFFECTIVE DATE:** June 12, 2009.

#### FOR FURTHER INFORMATION CONTACT:

Gemal Brangman at (202) 482-3773, or David Goldberger at (202) 482-4136, AD/CVD Operations, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

#### SUPPLEMENTARY INFORMATION:

##### Background

On March 9, 2009, the Department of Commerce (the Department) published a notice for the preliminary results of the administrative review of the antidumping duty order on certain frozen warmwater shrimp from Ecuador covering the period February 1, 2007, through August 14, 2007. *See Certain Frozen Warmwater Shrimp from Ecuador: Preliminary Results of Antidumping Duty Administrative Review*, 74 FR 9983 (March 9, 2009). The final results for this administrative review are currently due no later than July 7, 2009, 120 days from the date of publication of the preliminary results of review.

#### Extension of Time Limit for the Final Results

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), requires the Department to issue the final results of an administrative review within 120 days after the date on which the preliminary results are published. If it is not practicable to complete the review within that time period, section 751(a)(3)(A) of the Act allows the Department to extend the deadline for the final results to a maximum of 180 days after the date on which the preliminary results are published.

The Department determines that completion of the final results of the review within the original time limit is not practicable. Due to the complexity of the issues raised in this review, the Department requires additional time to review and analyze them in order to complete this review. Therefore, the Department is extending the time limit for completion of the final results of this review by 60 days, in accordance with section 751(a)(3)(A) of the Act. The final results are now due no later than September 8, 2009.

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: June 8, 2009.

**John M. Andersen,**

*Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

[FR Doc. E9-13875 Filed 6-11-09; 8:45 am]

**BILLING CODE 3510-DS-S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648-AV00**

#### Atlantic Highly Migratory Species; Essential Fish Habitat

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

**ACTION:** Notice of availability of a final integrated environmental impact statement and fishery management plan amendment.

**SUMMARY:** NMFS announces the availability of a final integrated environmental impact statement (EIS) and fishery management plan (FMP) amendment pursuant to the National Environmental Policy Act (NEPA) that revises existing Highly Migratory Species (HMS) Essential Fish Habitat (EFH); establishes a new Habitat Area of

Particular Concern (HAPC) for bluefin tuna (BFT) in the Gulf of Mexico; and includes conservation recommendations for fishing and non-fishing impacts on EFH consistent with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and other relevant Federal laws. Approval of the amendment will be concurrent with approval of the Record of Decision and will occur following the 30-day waiting period on the FEIS.

**DATES:** Please refer to an upcoming U.S. Environmental Protection Agency (EPA) **Federal Register** notice regarding this action, EPA's notice is expected to publish in the **Federal Register** within the next week.

**ADDRESSES:** Copies of the integrated EIS/FMP amendment are available from the Highly Migratory Species Management Division, NMFS/SF1, 1315 East-West Highway, Silver Spring, MD 20910, or by contacting Chris Rilling at (301) 713-2347 or by emailing [chris.rilling@noaa.gov](mailto:chris.rilling@noaa.gov). Electronic copies are also available on the HMS website under Breaking News at <http://www.nmfs.noaa.gov/sfa/hms/>.

**FOR FURTHER INFORMATION CONTACT:** Chris Rilling or Sari Kiraly by phone at (301) 713-2347 or by fax at (301) 713-1917.

#### SUPPLEMENTARY INFORMATION:

##### Background

The Magnuson-Stevens Act (16 U.S.C. 1801 *et seq.*) as amended by the Sustainable Fisheries Act (Public Law 104-297) requires the identification and description of EFH in FMPs and the consideration of actions to ensure the conservation and enhancement of such habitat. The EFH regulatory guidelines (50 CFR 600.815) state that NMFS should periodically review and revise EFH, as warranted, based on available information.

EFH, including HAPCs, for HMS was first identified and described in the 1999 FMP for Atlantic Tunas, Swordfish, and Sharks, and in the 1999 Amendment 1 to the Atlantic Billfish FMP. EFH for five shark species was updated in the 2003 Amendment 1 to the 1999 FMP for Atlantic Tunas, Swordfish, and Sharks. NMFS reviewed all new and existing EFH data in the 2006 Consolidated HMS FMP and determined that revisions to existing EFH for some Atlantic HMS may be warranted. This final amendment to the 2006 Consolidated HMS FMP (hereafter Final Amendment 1) amends the existing EFH identifications and descriptions, and designates a new HAPC for BFT in the Gulf of Mexico.

On November 7, 2006 (71 FR 65088), NMFS published a Notice of Intent to prepare an EIS to examine alternatives for updating existing HMS EFH, consider additional HAPCs, analyze fishing gear impacts, and if necessary, identify ways to avoid or minimize, to the extent practicable, adverse fishing impacts on EFH consistent with the Magnuson-Stevens Act and other relevant Federal laws. On the same day, NMFS also made available a Pre-Draft of Amendment 1 that included a general description of the approaches being considered to update EFH, considered new HAPCs, and where applicable, recommendations to minimize fishing impacts. The Pre-Draft also served to obtain additional information and input from the public and Atlantic HMS Consulting Parties on potential options or alternatives to consider prior to development of the Draft EIS for Amendment 1 of the Consolidated HMS FMP. Two scoping meetings were held in conjunction with the HMS Advisory Panel (AP) meetings in March 2007 (72 FR 7860; February 21, 2007) and October 2007 (72 FR 49264; August 28, 2007).

Based in part on the comments received during scoping and from the HMS AP, on September 19, 2008, NMFS released Draft Amendment 1 to the Consolidated HMS FMP and the associated Notice of Availability (73 FR 54384). The public comment period was originally scheduled to end on November 18, 2008, however it was subsequently extended (73 FR 66844, November 12, 2008) and reopened until December 12, 2008, to provide the Regional Fishery Management Councils, the Interstate Marine Fisheries Commissions, and the public additional opportunity to submit comments.

Draft Amendment 1 proposed to update HMS EFH boundaries using new data and a new approach for mapping EFH, and proposed to designate a new HAPC for BFT in the Gulf of Mexico. Draft Amendment 1 also included an analysis of fishing and non-fishing impacts on EFH as required by the Magnuson-Stevens Act and the EFH regulations. NMFS consulted with the HMS AP; the New England, Mid-Atlantic, South Atlantic, Caribbean, and Gulf of Mexico Fishery Management Councils; and the Gulf and Atlantic States Marine Fisheries Commissions. Since NMFS was not proposing new regulations with respect to EFH, NMFS did not prepare a proposed rule in conjunction with the DEIS. The summary of the comments received and NMFS' responses are provided below. Based on these public comments, NMFS made some changes to the EFH and

HAPC boundaries as outlined in Final Amendment 1.

#### Changes from the Draft Amendment 1

1. Draft Amendment 1 considered several alternatives for updating HMS EFH. The preferred alternative to identify EFH based on the 95 percent probability boundary was not changed in Final Amendment 1. This approach was selected as the preferred alternative because it is based on the actual data points and provides a standardized, transparent, and reproducible method for delineating EFH. However, in some cases, the 95 percent probability boundaries were modified following additional analysis of the data and consultation with NMFS scientists familiar with the biology, life history, and habitat requirements of the species. These changes may have incorporated new areas known by species experts to be EFH, or conversely, may have removed areas that were not considered EFH for some species. The final boundaries are available as maps in the Final Amendment 1 and on the interactive webpage at [http://sharpfin.nmfs.noaa.gov/website/EFH\\_Mapper/HMS/map.aspx](http://sharpfin.nmfs.noaa.gov/website/EFH_Mapper/HMS/map.aspx).

2. To further the conservation and enhancement of EFH, the EFH guidelines encourage the identification of HAPCs. HAPCs are areas within EFH that should be identified based on one or more of the following considerations: 1) the importance of the ecological function provided by the habitat; 2) the extent to which the habitat is sensitive to human-induced environmental degradation; 3) whether, and to what extent, development activities are, or will be stressing the habitat type; and 4) the rarity of the habitat type. HAPCs can be used to focus conservation efforts on specific habitat types or areas that are especially important ecologically or particularly vulnerable to degradation. HAPCs are not required to have any specific management measures and a HAPC designation does not automatically result in closures or other fishing restrictions. Rather, the areas are intended to focus conservation efforts and bring heightened awareness to the importance of the habitat being considered as a HAPC.

Draft Amendment 1 considered several alternatives for designating HAPCs for BFT spawning areas in the Gulf of Mexico. Data used to delineate the HAPC boundary included NMFS observer program data, NMFS larval surveys, pop-up archival tag (PAT) data, pop-up satellite archival tag (PSAT) data, and peer-reviewed publications that include information highlighting the importance of the central Gulf of

Mexico as a BFT spawning area. Although there are no direct environmental effects of designating the BFT HAPC, the designation could help identify additional conservation efforts to minimize the impacts on BFT spawning habitat. Based on public comment, additional analysis of the data, and consultation with NMFS scientists familiar with the biology, life history, and habitat requirements of the species, NMFS modified the BFT HAPC boundary west of 86 degrees West longitude to follow the 100 meter isobath in the Gulf of Mexico and extending to the Exclusive Economic Zone (EEZ) boundary. The final HAPC boundary is available as a map in the Final Amendment 1 and on the interactive webpage at [http://sharpfin.nmfs.noaa.gov/website/EFH\\_Mapper/HMS/map.aspx](http://sharpfin.nmfs.noaa.gov/website/EFH_Mapper/HMS/map.aspx).

### Fishing and Non-Fishing Activities

In addition to considering revisions to existing EFH and designating new HAPCs, the EFH guidelines require that FMPs identify fishing and non-fishing activities that may adversely affect EFH. Each FMP must include an evaluation of the potential adverse impacts of fishing on EFH designated under the FMP, effects of each fishing activity regulated under the FMP, as well as the effects of other Federal FMPs and non-federally managed fishing activities (i.e., state fisheries) on EFH. The FMPs must describe each fishing activity and review and discuss all available relevant information such as the intensity, extent, and frequency of any adverse effects on EFH; the type of habitat within EFH that may be adversely affected; and the habitat functions that may be disturbed (50 CFR 600.815(a)(2)). If adverse effects of fishing activities are identified, then the Magnuson-Stevens Act requires the effects of such fishing activities on EFH to be minimized to the extent practicable (Magnuson-Stevens Act section 303(a)(7)).

NMFS completed the original analysis of fishing and non-fishing impacts in the 1999 FMP for Atlantic Tunas, Swordfish, and Sharks, and included a comprehensive review of all fishing gears and non-fishing activities that could potentially impact EFH in the 2006 Consolidated HMS FMP. In that FMP, NMFS preliminarily concluded that no HMS gear, other than bottom longline, was likely to have an effect on HMS or other managed species' EFH since most HMS gears such as rod and reel, handline, and pelagic longline, are fished in the water column where they are unlikely to affect either the water column or benthic habitat that define

EFH for managed species. Bottom longline gear is used predominantly in the Atlantic commercial shark fishery to target large and small coastal sharks. The 2006 Consolidated HMS FMP also indicated that additional analyses would be initiated to determine the extent to which bottom longline gear might be impacting specific habitats such as coral reefs, which are generally considered the habitat type most likely to be adversely affected by bottom longline gear.

The Draft Amendment 1 included an assessment of whether HMS bottom longline gear is used in EFH; an analysis of the intensity, extent, and frequency of such impacts; and a determination as to whether those impacts are more than minimal and not temporary. The "more than minimal and not temporary" threshold was established by NMFS as the necessary threshold for taking additional action to minimize such impacts. Based on the analysis, NMFS has determined that while BLL gear in general may have an effect on EFH, shark BLL gear as currently used in the shark fishery was not having more than a minimal and temporary effect on EFH. As a result, NMFS did not propose or finalize any measures to regulate shark BLL fishing in association with EFH. The findings are based on shark bottom longline observer program data which indicate that only a small fraction of bottom longline sets occur within coral reef habitat in addition to other recent measures implemented in Amendment 2 to the 2006 Consolidated HMS FMP for the Atlantic shark fishery, which greatly reduced fishing effort in the Atlantic shark fishery (73 FR 35778; June 24, 2008, and corrected at 73 FR 40658; July 15, 2008). NMFS will continue to work with the Regional Fishery Management Councils to identify areas where bottom longline gear used in the reef fish fishery or snapper grouper fishery may be having an adverse effect on habitat, and where the Councils may consider measures to reduce impacts. In those cases, NMFS may consider complementary regulations to prohibit shark bottom longline gear as was done in the Caribbean (72 FR 5633, February 7, 2007) and most recently in the South Atlantic Marine Protected Areas (73 FR 40658, July 15, 2008).

The Gulf of Mexico Fishery Management Council is currently developing a final programmatic environmental impact statement (FPEIS)/FMP for offshore aquaculture in the Gulf of Mexico. Based on public comments concerning the impacts of aquaculture projects on EFH and the BFT HAPC in particular, NMFS

included a section in Chapter 6 of the FEIS describing the Aquaculture FPEIS, the potential impacts of offshore aquaculture, and recommended conservation measures.

### Response to Comments

Public comments on Draft Amendment 1 were accepted at the HMS AP meeting, Fishery Management Council meetings, and public hearings, as well as written comments submitted electronically to [HMSEFH@noaa.gov](mailto:HMSEFH@noaa.gov) or mailed during the comment period. A total of 34 comment letters or postings were received from Federal and state resource and environmental agencies, fishing industry, environmental groups, recreational fishing interests, and the public. In addition, NMFS received 1,035 form letters expressing support for the BFT HAPC in the Gulf of Mexico (an example is provided in Appendix 2 of the FEIS). All comments were considered by NMFS in development of this FEIS and are included in Appendix 2. For purposes of indicating how comments were considered in development of this FEIS and Final Amendment 1, the comments are grouped into subject headings of EFH designations, HAPCs, and impacts on EFH.

#### 1. Essential Fish Habitat Designations

*Comment 1:* NMFS should include information from catches of blacktip, sandbar, and dusky sharks that appear to overwinter in Mexican waters. The data would indicate that NMFS should consider a secondary sandbar shark nursery ground off Brownsville, Texas.

*Response:* While NMFS agrees that considering habitat use by HMS and other federally managed species outside the U.S. EEZ is important, EFH cannot be designated outside the U.S. EEZ and therefore NMFS did not seek information on sharks from countries other than the United States. In fact, BFT is the only HMS for which NMFS has data from within Mexican waters. Blacktip shark is the only shark species referred to be the commenter where available U.S. information was sufficient to identify EFH for all three life stages. Although there were isolated catches of sandbar and dusky sharks off southern Texas, there was insufficient information to identify EFH for either species off Brownsville, Texas. NMFS would need additional data or information to support an EFH designation for sandbar or dusky sharks off Brownsville.

*Comment 2:* NMFS should consider separate EFH areas for blacknose sharks in the Gulf of Mexico and those in the

Atlantic, and consider incorporating shrimp trawl data.

*Response:* In the 2007 blacknose shark stock assessment, the assessment scientists decided after reviewing the available data, that blacknose sharks should be assessed as a single stock. The scientists noted that there was conflicting genetic data regarding the existence of two separate stocks, and they recognized the potential differences in the reproductive cycle for South Atlantic and Gulf of Mexico populations. However, given that the stock assessment did not consider blacknose to be comprised of two separate stocks, NMFS has decided to keep the EFH areas for blacknose sharks as a single EFH designation. It should be noted that the EFH boundaries in the Atlantic and Gulf of Mexico are similar in size and scope, indicating that both areas play an important role in the life history and habitat requirements for blacknose sharks.

*Comment 3:* The disadvantage of the preferred alternative (alternative 3) is that data-poor species result in smaller, discontinuous areas of EFH than data-rich species. The species with limited habitat data should be clearly listed, as well as an approach to try to verify or modify these EFH boundaries to ensure they are protective; the DEIS does not provide adequate information to show that this is a protective approach for all species covered.

*Response:* NMFS agrees that, depending upon the number of data points, data poor species tend to result in smaller, discontinuous areas of EFH than data rich species. To help address this concern, NMFS combined data from all three life stages for some of the data poor species. Examples include angel shark, basking shark, and bigeye thresher, among others. NMFS has provided a complete list of species for which data from two or more life stages were combined in Table 5.3 of the FEIS. In some cases, the increase in the number of data points helped alleviate some of the patchiness in the EFH boundaries. In other cases, it may not have helped, and NMFS scientists familiar with the habitat requirements for the species may have recommended that, where appropriate, and where there was specific knowledge of the habitat utilized by certain life stages, that the smaller discontinuous areas be manually combined into a single continuous area. Examples where this approach was used include smooth hammerhead sharks and common thresher shark. There may have been some species for which NMFS was unable to make further adjustments due to lack of additional data and smaller,

discontinuous areas may still be evident.

*Comment 4:* A discussion should be provided to discuss the monitoring plans, data gaps, and how future EFH related data will be obtained and used.

*Response:* Chapter 7 of the FEIS provides an update of research and information needs for each of the major HMS stocks (tunas, swordfish, billfish, and sharks) as well as the information gaps and how best to address them.

*Comment 5:* How can NMFS illustrate EFH in state waters? Has NMFS ground truthed EFH in state waters with the research surveys being done by the states?

*Response:* Depending upon the species and life stage, NMFS may have identified portions of state waters as EFH. This is more likely to be the case for sharks, which use coastal bays and estuaries as nursery and pupping grounds, than for other HMS such as tunas and billfish which tend to be further offshore and occur less frequently in state waters. It may also depend upon the extent of the state's seaward boundary. Both Florida (west coast) and Texas have 9 nautical mile territorial sea boundaries which may encompass EFH for a number of HMS. For sharks that occur in state waters, many of the data points used to designate EFH were drawn from individual researchers who may have contributed to the NMFS Cooperative Atlantic States Shark Pupping and Nursery Areas (COASTSPAN) program and the synthesis document "Shark nursery grounds of the Gulf of Mexico and the east coast waters of the United States" (McCandless et al., 2007). Although not every research survey done in a state may have been included in the analysis, a considerable amount of data was included from surveys or data collected by other means in state waters, including fishery independent surveys conducted by states.

*Comment 6:* What kind of data was used to map EFH in estuaries?

*Response:* As described in the previous response and more thoroughly in Chapters 2 and 4 of the FEIS, NMFS used observer program data, data from individual researchers, scientists participating in the COASTSPAN program, tag/recapture data from various tagging programs, and state fishery independent monitoring to generate the initial probability boundaries. NMFS then consulted with scientists familiar with the habitat requirements for the species to determine whether specific bays and estuaries should be included as EFH boundaries. NMFS also cross-checked the resulting probability boundaries

with scientific data from peer-reviewed publications and collaborated with scientists to ensure the correct data were used and that appropriate areas were delineated. Finally, NMFS had an extended 90-day comment period for the DEIS during which all of the proposed boundaries were available for viewing in hard copy and electronic format, and on an interactive internet mapping site. NMFS received a number of comments during that period which further helped to determine whether specific estuaries should be included.

*Comment 7:* Does HMS EFH encompass the entire water column?

*Response:* Yes, at this point, HMS EFH is considered to encompass the entire water column. At some point in the future, NMFS may have the necessary data and technology to differentiate between different water depths utilized by HMS and further refine the exact habitat within the water column that is essential; however, NMFS does not yet have that capability. EFH from some species of sharks also includes benthic habitat in coastal areas for shark pupping and nursery grounds.

*Comment 8:* Do the lead weights used on deep sea trawls have an impact on HMS EFH?

*Response:* No, lead weights used on deep sea trawls do not have an impact on HMS EFH because HMS EFH does not include benthic habitat in deep sea areas. HMS EFH is instead defined by the water column and not benthic habitat.

*Comment 9:* Were the bottom longline vessel locations near the coral reefs collected with GPS or some other means? The locations may not be accurate depending on how the locations were obtained or recorded.

*Response:* Depending on the year, latitude and longitude coordinates may have been collected using either a Global Positioning System (GPS) or U.S. Coast Guard Long Range Aid to Navigation (LORAN-C). LORAN was used widely throughout the 1980s and early 1990s before most vessels began to switch to GPS. Since the data are from the mid 1990s it is possible that some data were collected by LORAN-C which may be subject to error.

*Comment 10:* Did NMFS use vessel trip reports or pelagic longline logbook data in the analysis?

*Response:* NMFS did not use vessel trip reports or pelagic longline logbook data because neither data set includes size information which is necessary to identify EFH by life stage as required by the EFH regulations.

*Comment 11:* The EFH mapper is great, loads quickly, and is a good way to present the data.

*Response:* NMFS received many favorable comments about the EFH mapping tool. NMFS considers the EFH mapper to be an effective way to make HMS EFH boundaries available to the public, state, and federal agencies that need to consider whether a proposed project may occur within EFH boundaries. The high resolution and detail that is available on the EFH mapper is far superior to static, hardcopy maps. By zooming in and out on specific coastal areas, it is possible for interested parties to determine the exact location of HMS EFH boundaries. This in turn will help applicants determine whether consultation may be required. In addition, the internet mapping site provides a cost-effective alternative to the high cost associated with printing color maps.

*Comment 12:* Will NMFS be able to provide the spatial EFH files to the public or interested parties?

*Response:* Yes, NMFS plans to continue using the EFH mapping site that was used during the DEIS comment period. In addition, maps and downloadable spatial EFH files for all federally managed species can be found on the NMFS EFH Mapper at [http://sharpfin.nmfs.noaa.gov/website/EFH\\_Mapper/map.aspx](http://sharpfin.nmfs.noaa.gov/website/EFH_Mapper/map.aspx). NMFS will continue to provide spatial Geographic Information System (GIS) EFH files to interested parties upon request. Even prior to development of the internet site, NMFS regularly provided spatial Geographic Information System (GIS) EFH files to interested parties upon request, and will continue to do so.

*Comment 13:* Did NMFS do a statistical analysis of whether there were sufficient points or adequate sample size to determine EFH based on presence/absence data? If not, at the least, NMFS should include the number of data points used for each of the species.

*Response:* NMFS did not perform a statistical analysis to determine whether there were sufficient data points to determine EFH, but did provide the number of data points used by data source for each species on the hardcopy maps in the FEIS. NMFS also included the number of data points represented by each species and life stage in the electronic PDF versions of the maps, but could not include them on the EFH internet mapping site.

*Comment 14:* Are there any plans to consider HAPCs for any other species?

*Response:* NMFS is not considering additional HAPCs at this time, however this does not preclude future HAPC designations.

*Comment 15:* NMFS should consider forage species as EFH.

*Response:* According to the Magnuson-Stevens Act, EFH is defined as areas necessary for spawning, breeding, feeding, and growth to maturity. As part of the analysis in determining EFH, NMFS considered areas that were important feeding areas and where prey species play an important role. However, NMFS is not required to designate EFH for a particular species based purely on the availability, or primary habitat of, prey species. Prey species are one component that is taken into consideration when determining EFH.

## 2. Habitat Areas of Particular Concern (HAPCs)

*Comment 1:* NMFS received numerous comments in support of the HAPC designation for BFT in the Gulf of Mexico including 1,035 letters from members of the Monterey Aquarium's Ocean Action Team.

*Response:* NMFS recognizes that HAPCs are intended to focus conservation efforts and bring heightened awareness to the ecological importance of special areas and their vulnerability to degradation through fishing and non-fishing activities. Designating the bluefin tuna spawning area in the Gulf of Mexico should highlight the importance of the area and foster added conservation measures to reduce impacts from these activities. By establishing the EFH provisions, the Magnuson-Stevens Act clearly recognized and acknowledged the importance of habitat in maintaining healthy fish stocks. The EFH provisions provide a tool by which NMFS has greater oversight of development activities that have the potential to impact EFH. Specifically, section 305(b)(1)(D) of the Magnuson-Stevens Act requires all Federal agencies to consult with the Secretary on all actions or proposed actions authorized, funded, or undertaken by the agency that may adversely affect EFH.

*Comment 2:* We support designation of the HAPC for BFT in the Gulf of Mexico. Each of the criteria under the EFH HAPC guidelines is satisfied. Bluefin tuna spawning habitat in the Gulf of Mexico is vulnerable to a number of sources of human-induced degradation, including: 1) reduced availability of prey fish for feed should offshore aquaculture be developed (EFH guidelines identify actions that reduce the availability of major prey species as adverse effects on EFH); 2) expanded offshore oil drilling and liquefied natural gas development; 3) threats to sargassum habitat, which studies have found support larvae of BFT and other pelagic species; 4) and dead zones that

potentially could pose a long-term threat to spawning success. The area designated for HAPC is in need of additional levels of protection from such adverse impacts.

*Response:* NMFS agrees that there are a number of activities that have the potential to impact EFH and HAPCs, not just in the Gulf of Mexico, but in all areas. The Gulf of Mexico Fishery Management Council (GMFMC) is currently developing an Aquaculture FPEIS. The purpose of the plan is to establish a regional permitting process to manage the development of an environmentally sound and economically sustainable aquaculture industry in federal waters of the Gulf of Mexico. Aquaculture projects for council managed species in federal waters of the Gulf of Mexico would need to be authorized and receive a permit from the GMFMC. Permit applicants would be required to conduct a baseline environmental assessment of the proposed site prior to permit review by NMFS. If a permit is authorized, permittees would have to conduct routine monitoring of a site based on NMFS protocols and procedures developed in coordination with other federal agencies. Aquaculture operations would also be required to report to NMFS within 24 hours of the discovery of: major escapement; entanglements or interactions with marine mammals, endangered species and migratory birds; and findings or suspected findings of pathogens. Other activities such as oil and gas development are subject to the consultation provisions under the Magnuson-Stevens Act. Section 305(b)(1)(D) of the Magnuson-Stevens Act requires all federal agencies to consult with the Secretary on all actions or proposed actions authorized, funded, or undertaken by the agency that may adversely affect EFH.

*Comment 3:* Designating a HAPC for BFT populations will be a critically important step if it is to have any semblance at returning to viability. Other actions NMFS should take include: 1) developing an EIS for offshore aquaculture in federal waters; 2) reigning in permits for offshore aquaculture in federal waters; 3) reducing fishing for feedfish; and 4) designating the area identified as preferred alternative 2 as a HAPC.

*Response:* As discussed in the previous response, the GMFMC prepared a FPEIS for offshore aquaculture, which evaluates the potential environmental impacts of a range of alternatives and describes potential impacts to water quality, wild stocks, and fishing communities.

Potential impacts resulting from offshore aquaculture may include increased nutrient loading, habitat degradation, fish escapement, competition with wild stocks, entanglement of endangered or threatened species and migratory birds, spread of pathogens, user conflicts, economic and social impacts on domestic fisheries, and navigational hazards. The preferred alternatives selected by the Gulf Council are intended to prevent or mitigate to the extent practicable these potential adverse environmental impacts.

*Comment 4:* We believe that recent studies by Dr. Barbara Block of Stanford University indicate designation of the Atlantic BFT HAPC is necessary to prevent further depletion of the western population.

*Response:* In addition to Dr. Block's research, a number of other publications, studies, and data collected by NMFS as well as other state and Federal institutions, have highlighted the importance of the Gulf of Mexico for spawning BFT. Combined, all of these sources provide support for the designation of a HAPC for BFT in the Gulf of Mexico.

*Comment 5:* We support the designation of the BFT HAPC in the Gulf of Mexico, but recommend that the area be amended to include all waters west of 86 degrees West longitude and off the continental shelf (e.g., offshore of the 200 m contour) to the boundary of the U.S. EEZ, which is more scientifically accurate and is based on analyses of the combined electronic tagging and fishery data sets.

*Response:* Based on public comment, and further review of the data, NMFS has modified the HAPC boundary that was originally proposed in Draft Amendment 1 to follow the 100 meter (m) isobath west of 86 degrees West longitude in the Gulf of Mexico, and include all waters seaward of the 100m isobath to the EEZ boundary. NMFS believes that the changes to the boundary reflect the areas that are most important for BFT spawning in the Gulf of Mexico.

*Comment 6:* Why are there straight lines for the BFT HAPC in the Gulf of Mexico? Does NMFS have data to support a BFT HAPC in waters off western Louisiana? Spawning areas do not follow straight lines, and the northernmost portion should be moved further south. It would be better to follow existing contour lines.

*Response:* As described in the previous response, NMFS has modified the HAPC boundary to follow the 100m isobath in the Gulf of Mexico. Although straight lines are sometimes useful for

management and enforcement purposes, NMFS agrees that in this case, the best representation of the HAPC boundary in the Gulf would be to follow existing contour lines to better reflect habitat useage by BFT.

*Comment 7:* Is using larval data as a proxy for adult BFT spawning areas appropriate?

*Response:* NMFS used a variety of data sources to establish the HAPC boundary for BFT spawning areas in the Gulf of Mexico. As described in the FEIS, a number of alternatives were proposed, including a non-preferred alternative of using the 95 percent probability boundary for BFT larval data collections to which the commenter is referring. Instead, NMFS preferred alternative 2 which relied on a number of data sources, one of which included BFT larval data collections.

*Comment 8:* We support NMFS preference of HAPC alternative 2 over Alternatives 3 and 4; alternative 3 is biased due to larval sampling stations, and alternative 4 does not capture the entire spawning ground.

*Response:* NMFS agrees that alternative 2 is the best alternative for designating a HAPC for BFT spawning areas in the Gulf of Mexico because it encompasses the most important areas where BFT spawning is occurring rather than the areas where BFT eggs and larvae may be dispersed.

*Comment 9:* We request that you remove the Teo et al. (2007) overlay from the HAPC maps, as it misrepresents the data, the layers are not digitized accurately, and including the data overemphasizes the location of 28 individuals displaying breeding behavior as compared to thousands of points from the observer program, logbooks, and electronic tagging.

*Response:* NMFS has removed the Teo et al. (2007) overlay from the HAPC maps in the FEIS. The original intent of including the area in the Draft Amendment was to demonstrate the importance of the western Gulf of Mexico as one of the key areas for BFT spawning, and to indicate that the HAPC preferred alternative would encompass portions of the area within the U.S. EEZ considered primary breeding areas in the Teo et al. (2007) publication.

*Comment 10:* I support the creation of a HAPC for BFT in the Gulf of Mexico; I think NMFS should put the entire area off limits to development, fishing, and oil drilling.

*Response:* Section 305(b)(1)(D) of the Magnuson-Stevens Act requires all federal agencies to consult with the Secretary on all actions or proposed actions authorized, funded, or

undertaken by the agency that may adversely affect EFH. Sections 305(b)(3) and (4) direct the Secretary and the Councils to provide comments and EFH conservation recommendations to federal or state agencies on actions that affect EFH. Such recommendations may include measures to avoid, minimize, mitigate, or otherwise offset adverse effects on EFH resulting from actions or proposed actions authorized, funded, or undertaken by the agency or the activities of other agencies such as the Army Corps of Engineers or Mineral Management Service for development or offshore drilling. Section 305(b)(4)(B) requires federal agencies to respond in writing to such comments. Although NMFS has the regulatory authority to minimize fishing activities that are demonstrated to have more than a minimal and not temporary effect on EFH, NMFS has not proposed, nor implemented any measures to minimize fishing impact on EFH in this FEIS because NMFS has determined that BFT EFH is in the water column and fishing is not having more than a minimal impact on water column properties. Further, the Department of Commerce does not have the legal authority to regulate oil drilling.

*Comment 11:* NMFS received a number of comments regarding the HAPC and fishing effort including: (1) I support the HAPC and recommend closure of the Gulf of Mexico and Atlantic to longlining of any type; (2) this type of fishing is non selective and is destroying the fish and other wildlife indiscriminately; (3) BFT spawning grounds in the Gulf of Mexico need to be closed to purse seine and longline commercial fishing during the breeding season; and 4) NMFS should consider a seasonal closure for pelagic longlining in the HAPC during the bluefin spawning season.

*Response:* The EFH guidelines require NMFS to identify fishing and non-fishing activities that may adversely affect EFH. Since most HMS EFH is comprised of the water column, of which the characteristics of temperature, salinity, and dissolved oxygen are unlikely to be affected by fishing gears, NMFS concluded that fishing gears were not having a negative effect on most HMS EFH. As a result, NMFS did not propose any measures to regulate fishing in association with EFH. NMFS has provided a list of conservation recommendations for fishing and non-fishing activities that have the potential to impact EFH in the FEIS. Since the focus of this amendment is EFH, NMFS did not consider any alternatives or regulatory measures to limit fishing effort in order to reduce

bycatch. Such an action would need to be considered in a separate rulemaking or amendment. The Consolidated HMS FMP did include measures to reduce bycatch. NMFS is continuing to monitor bycatch of BFT in the Gulf of Mexico, and has implemented 100 percent observer coverage on pelagic longline vessels during the spawning season. Although NMFS issues permits for tuna purse-seining, targeting of BFT in the Gulf of Mexico is prohibited and purse-seining for BFT, or any other HMS, is not authorized in the Gulf of Mexico.

*Comment 12:* Despite the clearly recognized importance of Gulf spawners, NMFS has allowed continued bycatch mortality of mature BFT on their spawning ground by the U.S. pelagic longline fleet. We hope that by deciding to focus future conservation efforts for BFT on the Gulf of Mexico, NMFS will take even more proactive steps towards protecting these spawners.

*Response:* Targeting BFT is prohibited in the Gulf of Mexico. Vessels are currently subject to target catch requirements in order to retain any incidentally caught BFT. As indicated in the previous response, NMFS has implemented 100 percent observer coverage in the Gulf of Mexico during BFT spawning season (April-June) during the previous two years and will have 100 percent observer coverage again this year. This information will help NMFS to better understand the scope of the bycatch, the areas most likely to result in incidental catch of BFT, and the temporal variability in bycatch.

*Comment 13:* NMFS has incorrectly stated that the HAPCs for sandbar sharks in the Chesapeake Bay as being in the State of Maryland. In actuality, the HAPCs were identified in waters of Virginia.

*Response:* The commenter is correct that the majority of the HAPC for sandbar sharks is in Virginia state waters; however a portion of the HAPC is also located in Maryland state waters. As a result, NMFS has amended the language in the FEIS to say that the HAPC for sandbar sharks occurs in both Maryland and Virginia state waters of the Chesapeake Bay.

### 3. Fishing and Non-Fishing Impacts on Essential Fish Habitat

*Comment 1:* NMFS states that if future analyses indicate certain fishing gears are having a more than minimal and not temporary effect on EFH, NMFS will propose alternatives to avoid or minimize those impacts in a subsequent rulemaking; in this regard, we note that Atlantic BFT are subject to indirect

fishing pressure within the spawning grounds during the spawning season, in particular as bycatch in pelagic longline fisheries targeting other species.

*Response:* NMFS is aware of the incidental catch of BFT in the Gulf of Mexico and is continuing to monitor the situation in the Gulf of Mexico with 100 percent observer coverage on pelagic longline vessels during the spawning season. Since the focus of this amendment is habitat, NMFS did not consider any alternatives or regulatory measures to limit fishing effort in order to reduce bycatch. Such an action would need to be considered in a separate rulemaking or amendment, as appropriate.

*Comment 2:* We are concerned that NMFS' evaluation of the non-fishing threats to the proposed BFT HAPC in the Gulf of Mexico is incomplete - NMFS has completely failed to address the potential threat posed by seismic exploration activities associated with the expansion of oil and gas development in the Gulf.

*Response:* NMFS agrees that seismic exploration has the potential to affect habitat use by a number of species including HMS, and has therefore included conservation recommendations in the FEIS for seismic exploration activities associated with the expansion of oil and gas development in the Gulf of Mexico. During the normal course of consultation, habitat experts would review all available data to determine whether potentially harmful habitat effects had been adequately addressed prior to approval of any applications.

*Comment 3:* Additional information should be provided on how determinations will be made regarding impacts from fishing gear; further assurance should be given as to how any impacts will be addressed.

*Response:* Determination of impacts from fishing gears would be done in a manner similar to the analysis completed in the current Amendment for shark bottom longline gear. That is, NMFS would analyze the nature, scale, scope, duration, and frequency of impacts of fishing gears on specific habitat types and make a determination as to whether the impacts are considered more than minimal and not temporary in nature. If such an effect is demonstrated, then NMFS would propose measures to minimize those impacts. Impacts would be addressed on a case-by-case basis based on analysis of existing data.

*Comment 4:* The GMFMC is considering offshore aquaculture projects that should be considered a

fishing impact, and could have an impact on BFT EFH.

*Response:* NMFS is aware of the Programmatic EIS for offshore aquaculture that the GMFMC is finalizing and has included a discussion of offshore aquaculture, including conservation recommendations, in the Final EIS.

*Comment 5:* Did the EFH analysis include fishing effort? If not, this could be why there is no EFH identified for adult swordfish off the southeast corner of Florida.

*Response:* NMFS provided a detailed description of the data and approach used to update EFH boundaries in Chapter 4 of the FEIS, including inherent limitations in certain data sets and why others were not included. To summarize, NMFS did not include fishing effort in the EFH analysis for a variety of reasons. Most of the presence/absence data available for HMS does not include fishing effort. Some of the data sets that do include fishing effort, such as the Pelagic Longline Logbook data, do not include the size information required to identify EFH by lifestage as required by the EFH regulations. Other data sets that include fishing effort, such as the Pelagic Observer Program (POP) data, comprise only a small proportion of the overall data available for pelagic species. Thus, relying on fishing effort from the POP data alone would have precluded the use of other datasets and would have reduced the potential range of EFH.

*Comment 6:* "Dead zones" due to hypoxia could pose a significant long-term threat to spawning success for BFT. NMFS should include additional information on the dead zone in the Gulf of Mexico and potential impacts on BFT EFH and the HAPC.

*Response:* NMFS is aware of dead zones due to hypoxia in the Gulf of Mexico. Dead zones typically occur in benthic or near-benthic environments where they would be unlikely to affect BFT habitat. NMFS has examined this issue in more detail and included a discussion on hypoxia in the Final EIS.

*Comment 7:* What would the process be if there is a proposed aquaculture project in the BFT HAPC? Would the project still be allowed to happen?

*Response:* The GMFMC regulates non-HMS fisheries, including aquaculture, in the U.S. Gulf of Mexico EEZ, which extends from state waters to 200 nautical miles offshore. Landings or possession of species managed under an FMP for purposes of commercial marine aquaculture production in the EEZ constitutes "fishing" as defined in the Magnuson-Stevens Act. Permit applicants would be required to conduct



a baseline environmental assessment of the proposed site prior to permit review by NMFS. If a permit is authorized, permittees would have to conduct routine monitoring of a site based on NMFS protocols and procedures developed in coordination with other federal agencies. Aquaculture operations would also be required to report to NMFS within 24 hours of the discovery of: major escapement; entanglements or interactions with marine mammals, endangered species and migratory birds; and findings or suspected findings of pathogens.

*Comment 8:* Has NMFS considered harmful algal blooms (HABs) in the non-fishing impacts section?

*Response:* While HABs are a concern for a number of species, in general they are less likely to affect habitat for HMS because HABs tend to occur closer to shore in areas where HMS are less likely to occur. In addition, given their highly mobile nature, HMS are more likely to avoid prolonged contact with HABs in affected areas. However, NMFS considers this an important issue and has included additional information on HABs in the non-fishing impact section of the FEIS.

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

Dated: June 9, 2009.

**Alan D. Risenhoover,**

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

[FR Doc. E9-13866 Filed 6-11-09; 8:45 am]

**BILLING CODE 3510-22-S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN: 0648-XP78**

### Pacific Fishery Management Council; Public Meeting/Workshop

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

**ACTION:** Notice of three public meetings.

**SUMMARY:** Three Groundfish Stock Assessment Review (STAR) Panel meetings will be held to review new assessments for groundfish species. The first STAR Panel meeting will review new assessments for bocaccio and widow rockfish. The second STAR Panel meeting will review new assessments for lingcod and cabezon. The third STAR Panel meeting will review new assessments for yelloweye and greenstriped rockfish. All three

STAR Panel meetings are work sessions which are open to the public.

**DATES:** The bocaccio and widow rockfish STAR Panel meeting will be held beginning at 8:30 a.m., Monday, July 13, 2009. The meeting will continue on Tuesday, July 14, 2009 beginning at 8:30 a.m. through Friday, July 17, 2009. The meeting will end at 5:30 p.m. each day, or as necessary to complete business.

The lingcod and cabezon STAR Panel meeting will be held beginning at 8:30 a.m., Monday, July 27, 2009. The meeting will continue on Tuesday, July 28, 2009 beginning at 8:30 a.m. through Friday, July 31, 2009. The meeting will end at 5:30 p.m. each day, or as necessary to complete business.

The yelloweye and greenstriped rockfish STAR Panel meeting will be held beginning at 8:30 a.m., Monday, August 3, 2009. The meeting will continue on Tuesday, August 4, 2009 beginning at 8:30 a.m. through Friday, August 7, 2009. The meeting will end at 5:30 p.m. each day, or as necessary to complete business.

**ADDRESSES:** The bocaccio and widow rockfish STAR Panel meeting will be held at the NMFS Southwest Fisheries Science Center, Meeting Room 188, 110 Shaffer Road, Santa Cruz, CA 95060; telephone: (831) 420-3900.

The lingcod and cabezon STAR Panel meeting, as well as the yelloweye and greenstriped rockfish STAR Panel meeting, will be held at the Hotel Deca, 4507 Brooklyn Avenue N.E., Seattle WA 98105; telephone: 1-800-899-0251.

*Council address:* Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220-1384.

**FOR FURTHER INFORMATION CONTACT:** Ms. Stacey Miller, Northwest Fisheries Science Center (NWFS); telephone: (206) 437-5670; or Mr. John DeVore, Pacific Fishery Management Council; telephone: (503) 820-2280.

**SUPPLEMENTARY INFORMATION:** The purpose of the three STAR Panel meetings is to review draft stock assessment documents for these species and any other pertinent information, work with the Stock Assessment Teams to make necessary revisions, and produce STAR Panel reports for use by the Council family and other interested persons. No management actions will be decided by these STAR Panels. The STAR Panels' role will be development of recommendations and reports for consideration by the Council at its September meeting in Foster City, CA.

Although non-emergency issues not contained in the meeting agendas may come before the STAR Panel

participants for discussion, those issues may not be the subject of formal STAR Panel action during these meetings. STAR Panel action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the STAR Panel participants' intent to take final action to address the emergency.

### Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Ms. Carolyn Porter at (503) 820-2280 at least 5 days prior to the meeting date.

Dated: June 9, 2009.

**Tracey L. Thompson,**

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

[FR Doc. E9-13839 Filed 6-11-09; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN: 0648-XP77**

### Pacific Fishery Management Council; Public Meeting

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

**ACTION:** Notice of public meeting.

**SUMMARY:** The Pacific Fishery Management Council's (Council) Salmon Technical Team (STT) will hold a meeting to initiate planning and make assignments for developing an overfishing review for Queets River and Strait of Juan de Fuca natural coho. STT meeting to be held June 30, 2009 to plan development of an assessment of the causes and implications of Queets River and Strait of Juan de Fuca natural coho stocks failing to meet their conservation objective for three consecutive years. This meeting of the STT is open to the public.

**DATES:** The meeting will be held Tuesday, June 30, 2009, from 8:30 a.m. to 4 p.m.

**ADDRESSES:** The meeting will be held at the Washington Department of Fish and Wildlife office, located in the Natural Resources Building at 1111 Washington