



BILLING CODE: 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XG271

**Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic;
Exempted Fishing Permits**

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

ACTION: Notice of receipt of an application for exempted fishing permit; request for comments.

SUMMARY: NMFS announces the receipt of an application for an exempted fishing permit (EFP) from the Florida Fish and Wildlife Conservation Commission (FWC). If granted, the EFP would authorize the deployment of modified wire spiny lobster traps in the Federal waters of the South Atlantic. The project would seek to determine the effectiveness of these traps, as applicable, for attracting and collecting invasive lionfish while avoiding impacts to non-target species, protected species, and habitats.

DATES: Written comments must be received on or before [*INSERT DATE 30 CALENDAR DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER*].

ADDRESSES: You may submit comments on the application, identified by "NOAA-NMFS-2018-0068" by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2018-0068, click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.
- *Mail:* Frank Helies, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.
- *Instructions:* Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (e.g., name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

Electronic copies of the application and programmatic

environmental assessment (PEA) may be obtained from the

Southeast Regional Office Web Site at

http://sero.nmfs.noaa.gov/sustainable_fisheries/gulf_fisheries/LOA_and_EFP/2018/Lionfish/Lionfish%20EFP.html.

FOR FURTHER INFORMATION CONTACT: Frank Helies, 727-824-5305;
e-mail: frank.helies@noaa.gov.

SUPPLEMENTARY INFORMATION: The EFP is requested under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C 1801 *et seq.*), and regulations at 50 CFR 600.745(b) concerning exempted fishing.

Lionfish is an invasive marine species that occurs in both the Gulf of Mexico (Gulf) and South Atlantic. The harvest of lionfish in the Federal waters of the Gulf and South Atlantic is not currently managed by NMFS. The EFP application submitted to NMFS involves the use of prohibited gear in Federal waters. Federal regulations prohibit the use or possession of a fish trap in Federal waters in the Gulf and South Atlantic (50 CFR 622.9(c)). In South Atlantic Federal waters, the term "fish trap" refers to a trap capable of taking fish, except for a seabass pot, a golden crab trap, or a crustacean trap (50 CFR 622.2). The EFP would exempt these research activities from the regulation prohibiting the use or possession of a fish trap in Federal waters of the South Atlantic at 50 CFR 622.9(c), and would allow the applicant to use spiny lobster traps to target lionfish.

The applicant seeks an EFP to test the effectiveness of different trap modifications in capturing lionfish in the South Atlantic while avoiding impacts to non-target species,

protected species, and habitats. NMFS analyzed the effects of testing traps that target lionfish on the environment, including effects on Endangered Species Act (ESA)-listed species and designated critical habitat, and other non-target species and habitat, in the Gulf and South Atlantic regions through a PEA. Before issuing the permit, NMFS will analyze whether the proposed effort fits within the scope of the PEA and the ESA analysis on the expected effort under the PEA. If the proposed activities fit within the PEA and the ESA consultation, NMFS will document that determination for the record. Otherwise, NMFS will complete the required analyses.

The specific EFP request noticed here is further described and summarized below.

FWC is requesting authorization to test standard and modified wire spiny lobster traps in the South Atlantic to harvest lionfish aboard federally permitted commercial spiny lobster fishing vessels. The proposed research would examine the effectiveness and performance of modified trap designs for capturing lionfish, with the goal of identifying the best lobster trap modification to maximize lionfish catch and reduce bycatch of other species. Traps would be fished in a trawl configuration with a maximum of 32 traps and 2 surface buoys

per trawl. Spiny lobster trap modifications to be tested by the applicant would include funnel and escape gap dimensions and locations, in addition to bait types. Some traps would be outfitted with lionfish optical recognition technology. Modified traps would be compared to standard wire spiny lobster trap controls. Sampling with the traps would occur in water depths from 100-300 feet (30-91 meters) between Alligator Reef and Looe Key Reef in the Florida Keys, approximately twice per month, per year throughout the effectiveness of any issued EFP. Only areas open to commercial lobster fishing will be included in the study area. No more than 100 traps would be deployed in the water at any given time, and soak times would vary, but they would not exceed 21 days per deployment. FWC anticipates completing a maximum of 40 sampling trips per year. Bait could include live lionfish, plastic decoy lionfish, artificial lures, fish oil, and fish heads. As practicable, video and still photos of trap deployment and animal behavior in and near traps would be recorded using cameras.

FWC would contract commercial trap fishermen with experience fishing within the study area. Additionally, the contractors must have demonstrable experience in the catch and handling of lionfish. The applicant expects the research to be

conducted from up to two federally permitted commercial fishing vessels. At least one FWC scientist would be onboard a vessel at all times. Data to be collected per trip would include: gear configuration and fishing effort data (e.g., date and time of deployment and retrieval, latitude, longitude, and water depth of each deployed trawl, bait type used); soak time for each trawl; trap loss and movement from original set position; protected species interactions; bycatch species (amount, length, and disposition); and lionfish catch data for each trap type. All non-commercially viable bycatch species would be returned to the water as soon as possible. Depending on FWC's commercial vendor selected, those species that are legally allowed to be commercially harvested in Federal waters by the contracted commercial fishermen may be retained as commercial catch as long as the harvest and retention complies with applicable laws and regulations (e.g., permitted commercial fishermen may retain species of the legal size taken during the applicable season from appropriate areas using legal gears and vessels, consistent with applicable laws and regulations). Representative sub-samples of fish would be collected for species identification verification in the laboratory by FWC, as needed.

The applicant has requested the EFP be effective for a 3-year period from the date the EFP is issued.

NMFS finds the application warrants further consideration based on a preliminary review. Possible conditions the agency may impose on the permit, if granted, include but are not limited to, a prohibition on conducting research within marine protected areas, marine sanctuaries, special management zones, or areas where they might interfere with managed fisheries without additional authorization. Additionally, NMFS may require special protections for ESA-listed species and designated critical habitat, and may require particular gear markings. A final decision on issuance of the EFP will depend on NMFS' review of public comments received on the application, consultations with the appropriate fishery management agencies of the affected states, Councils, and the U.S. Coast Guard, and a determination that the activities to be taken under the EFP are consistent with all applicable laws and regulations.

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

Dated: June 26, 2018.

Margo B. Schulze-Haugen,

Acting Director, Office of Sustainable Fisheries,

National Marine Fisheries Service.

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