

must be in compliance with the National Research Council's "Guide for the Care and Use of Laboratory Animals" which can be obtained from National Academy Press, 2101 Constitution Avenue, NW., Washington, DC 20055. In addition, such proposals must meet the requirements of the Animal Welfare Act (7 U.S.C. 2131 *et seq.*), 9 CFR Parts 1, 2, and 3, and if appropriate, 21 CFR part 58. These regulations do not apply to proposed research using pre-existing images of animals or to research plans that do not include live animals that are being cared for, euthanized, or used by the project participants to accomplish research goals, teaching, or testing. These regulations also do not apply to obtaining animal materials from commercial processors of animal products or to animal cell lines or tissues from tissue banks.

**Limitation of Liability:** Funding for the programs listed in this notice is contingent upon the availability of Fiscal Year 2009 appropriations. NIST issues this notice subject to the appropriations made available under the current continuing resolution, H.R. 2638, "Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009" (Pub. L. 110-329). NIST anticipates making award for the programs listed in this notice provided that funding for the programs are continued beyond March 6, 2009, the expiration of the current continuing resolution. In no event will the Department of Commerce be responsible for proposal preparation costs if the NIST programs fail to receive funding or are cancelled because of Department of Commerce or NIST priorities. Publication of this announcement does not oblige the agency to award any specific project or to obligate any available funds.

**Additional Consideration of Applications:** NIST programs are often cross-cutting and multi-disciplinary. If a NIST program official believes an application that is not selected for funding may be of interest to another NIST program(s), the official may forward the application to any other NIST program(s) that the program official believes may have an interest in the project, for potential consideration under the other NIST program(s) procedures. If, upon initial screening, the other NIST program(s) finds the application may be of programmatic interest, the application will proceed through the review and selection procedures described in this Notice for the program(s). If not, the application will be returned to the original program for final processing. Any applicant that

does not wish for its application to be considered by other NIST programs should indicate on its application that it would like consideration of the project to be limited to the program to which it originally submitted the application. Applicants will be notified if their applications have been forwarded to another NIST program(s) for potential consideration.

**Executive Order 12866:** This funding notice was determined to be not significant for purposes of Executive Order 12866.

**Executive Order 13132 (Federalism):** It has been determined that this notice does not contain policies with federalism implications as that term is defined in Executive Order 13132.

**Executive Order 12372:** Applications under this program are not subject to Executive Order 12372, "Intergovernmental Review of Federal Programs."

**Administrative Procedure Act/Regulatory Flexibility Act:** Notice and comment are not required under the Administrative Procedure Act (5 U.S.C. 553) or any other law, for rules relating to public property, loans, grants, benefits or contracts (5 U.S.C. 553 (a)). Because notice and comment are not required under 5 U.S.C. 553, or any other law, for rules relating to public property, loans, grants, benefits or contracts (5 U.S.C. 553(a)), a Regulatory Flexibility Analysis is not required and has not been prepared for this notice, 5 U.S.C. 601 *et seq.*

Dated: February 17, 2009.

**Richard Kayser,**  
Chief Scientist, NIST.

[FR Doc. E9-3665 Filed 2-19-09; 8:45 am]

**BILLING CODE 3510-13-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

RIN 0648-XN32

#### Atlantic Coastal Fisheries Cooperative Management Act Provisions; Application for Exempted Fishing Permits

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

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

**SUMMARY:** This exempted fishing permit (EFP) application is a continuation of a collaborative project involving the

University of New Hampshire (UNH), Durham, New Hampshire (NH); the Lobster Conservancy, Friendship, Maine; the New England Aquarium, Boston, Massachusetts; and the Atlantic Offshore Lobstermen's Association, Candia, NH. The EFP proposes to continue monitoring legal sized egg bearing female lobsters (berried lobsters) carrying early-stage eggs. This project will allow participating Federal lobster permit holders, fishing in designated study areas, to preserve a maximum of ten eggs from each berried lobster captured in commercial lobster gear, to allow researchers to determine what percentage of eggs are fertilized, and estimate the egg developmental stage and time to maturity. The berried lobsters will then be released unharmed. This project would not involve the authorization of any additional trap gear, and all trap gear would conform to existing Federal lobster regulations. There would be no anticipated adverse effects on protected resources or habitat as a result of this research. The EFP would waive the prohibition on removal of eggs specified at 50 CFR 697.7(c)(1)(iv) for a maximum of three participating vessels.

The Director, State, Federal and Constituent Programs Office, Northeast Region, NMFS (Office Director) has made a preliminary determination that the subject EFP application contains all the required information and warrants further consideration. The Office Director has also made a preliminary determination that the activities authorized under the EFPs would be consistent with the goals and objectives of Federal management of the American lobster resource. However, further review and consultation may be necessary before a final determination is made to issue EFPs. NMFS announces that the Office Director proposes to issue EFPs and, therefore, invites comments on the issuance of EFPs for this research.

**DATES:** Comments on this lobster EFP notification for berried lobster monitoring and data collection must be received on or before March 9, 2009.

**ADDRESSES:** Written comments should be sent to Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, 55 Great Republic Drive, Gloucester, MA 01930-2298. Mark the outside of the envelope "Comments - Lobster EFP Proposal". Comments also may be sent via facsimile (fax) to 978-281-9117. Comments on the Lobster EFP Proposal may be submitted by e-mail. The mailbox address for providing e-mail comments is

*Lobster.April2009@noaa.gov*. Include in the subject line of the e-mail comment the following document identifier: "Comments – Lobster EFP Proposal".

**FOR FURTHER INFORMATION CONTACT:**

Patience Whitten, Fishery Management Specialist, (978) 281-9349, fax (978) 281-9117.

**SUPPLEMENTARY INFORMATION:**

**Background**

The regulations that govern exempted fishing, at 50 CFR 600.745(b) and 697.22 allow the Regional Administrator to authorize for limited testing, public display, data collection, exploration, health and safety, environmental clean-up, and/or hazardous removal purposes, and the targeting or incidental harvest of managed species that would otherwise be prohibited. An EFP to authorize such activity may be issued, provided there is adequate opportunity for the public to comment on the EFP application, the conservation goals and objectives of Federal management of the American lobster resource are not compromised, and issuance of the EFP is beneficial to the management of the species.

The American lobster fishery is one of the most valuable fisheries in the northeastern United States. In 2007, approximately 75 million pounds (34,107 metric tons) of American lobster were landed with an ex-vessel value of approximately 350,000 million dollars. Operating under the Atlantic States Marine Fisheries Commission's interstate management process, American lobster are managed in state waters under Amendment 3 to the American Lobster Interstate Fishery Management Plan (Amendment 3). In Federal waters of the Exclusive Economic Zone (EEZ), lobster is managed under Federal regulations at 50 CFR part 697. Amendment 3, and compatible Federal regulations, established a framework for area management, which includes industry participation in the development of a management program which suits the needs of each lobster management area while meeting targets established in the Interstate Fisheries Management Program. The industry, through area management teams, with the support of state agencies, have played a vital role in advancing the area management program.

American lobster experience very high fishing mortality rates throughout their range, from Canada to Cape Hatteras, North Carolina. Although harvest and population abundance are near record levels due to high recent recruitment and favorable environmental conditions, there is

significant risk of a sharp drop in abundance, and such a decline would have serious implications. To facilitate the development of effective management tools, extensive monitoring and detailed data on the biology and composition of lobsters throughout the range of the resource are necessary. To facilitate effective management, this proposed EFP would monitor egg growth and development of berried lobsters in two study areas using traditional lobster trap gear.

**Proposed EFP**

The EFP proposes to continue the collection of statistical and scientific information as part of a project, originally announced in the **Federal Register** on October 21, 2004 (69 FR 19165), that is designed to monitor berried lobsters to collect data that will assist in the assessment of the lobster resource and in the development of management practices appropriate to the fishery. Previous data collected in 2007 and 2008 from tagged berried lobsters that were monitored for egg-development stages, indicated a percentage of berried females are carrying eggs that are not fertilized. This continuation of the research will focus on quantifying fertilization success, and monitor egg growth and development.

Each of the maximum of three commercial fishing vessels in possession of Federal lobster permits involved in this monitoring and data collection program would collect a maximum of ten eggs from each berried lobster harvested, up to a maximum project total of 100 berried lobsters per vessel, using traditional lobster trap gear. Removal of a maximum of ten eggs from each berried lobster should have no impact on the health or survival of the lobsters, since lobsters typically experience significantly greater rates of daily egg loss throughout their thirteen month incubation period, with cumulative egg loss as high as thirty six percent. Participating vessels would collect data from each of the two general study areas in the vicinity of the northern edge of Georges Bank and in the vicinity of Veatch and Hydrographer Canyons along the southern edge of Georges Bank. The participating vessels may retain on deck egg-bearing female lobsters, in addition to legal lobsters, for the purpose of collecting a maximum of ten eggs from each berried lobster to allow researchers to determine what percentage of eggs are fertilized, and to estimate the egg developmental stage, and time to maturity. All berried lobsters would be returned to the sea as quickly as possible after data collection. Pursuant to 50 CFR 600.745(b)(3)(v), the

Regional Administrator may attach terms and conditions to the EFP consistent with the purpose of the exempted fishing.

This project would not involve the authorization of any additional lobster trap gear. All traps fished by the participating vessels would comply with all applicable lobster regulations specified at 50 CFR part 697. To allow for the removal of a maximum of ten eggs from each berried lobster, the EFP would waive the American lobster prohibition on removal of eggs specified at 50 CFR 697.7(c)(1)(iv). All sample collections would be conducted by a maximum of three federally permitted commercial fishing vessels, during the course of regular commercial fishing operations. There would not be observers or researchers onboard every participating vessel.

This project, including the lobster handling protocols, was initially developed in consultation with University of New Hampshire scientists. To the greatest extent practicable, these handling protocols are designed to avoid unnecessary adverse environmental impact on lobsters involved in this project, while achieving the data collection objectives of this project.

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

Dated: February 17, 2009.

**Emily H. Menashes,**

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

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

[Docket No. 0811251527-9165-02]

**RIN 0648-ZB55**

**Availability of Grants Funds for Fiscal Year 2009; Amendment**

**AGENCY:** National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

**ACTION:** Notice of funding availability; amendment.

**SUMMARY:** NOAA publishes this notice to amend the solicitation "NOAA Bay Watershed Education and Training (B-WET) Program," which was originally announced in the **Federal Register** on Tuesday, December 16, 2008. Due to technical difficulties, potential applicants may have experienced problems when attempting to submit applications for the "NOAA Bay