

Dated: July 9, 2020.

**Tracey L. Thompson,**

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

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[RTID 0648-XS033]

#### 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 University of Georgia Marine Extension and Georgia Sea Grant. If granted, the EFP would authorize the applicant to deploy modified black sea bass pots with Acoustic Subsea Buoy Retrieval Systems (ASBRs) in Federal waters off Georgia. The project would examine the potential usefulness of the ASBRs for use in the black sea bass pot component for the commercial sector of the snapper-grouper fishery while minimizing impacts to protected species.

**DATES:** Written comments must be received on or before August 14, 2020.

**ADDRESSES:** You may submit comments on the application, identified by “NOAA-NMFS-2020-0090” 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-2020-0090](http://www.regulations.gov/#/docketDetail;D=NOAA-NMFS-2020-0090), 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](http://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 may be obtained from the Southeast Regional Office website at <https://www.fisheries.noaa.gov/southeast/black-sea-bass-pot-pilot-project-exempted-fishing-permit-application/>.

**FOR FURTHER INFORMATION CONTACT:** Frank Helies, 727-824-5305; email: [frank.helies@noaa.gov](mailto:frank.helies@noaa.gov).

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

Currently, vertical end lines and buoys, such as those utilized with black sea bass pots in the South Atlantic, present an entanglement risk to the North Atlantic right whale, a species that is listed as endangered under the Endangered Species Act (ESA) and that annually migrates and in the winter calves off the coast of Georgia in Federal and state waters. ASBRs are a type of fishing gear that allows fish traps, including black sea bass pots, buoys, and their retrieval devices to be stored at depth until triggered for retrieval at the surface. These gear systems allow for trap and pot buoys and vertical lines to exist in the water column for minutes instead of hours or days, as they are activated via acoustic release only when fishers are present. As described in the application, the applicant believes that adaptation of ASBRs or “ropeless” systems for black sea bass pot fishing in the South Atlantic could reduce the risk to these whales and other marine animals that are subject to entanglements from vertical lines and buoys.

If granted, the EFP would exempt limited fishing gear testing activities from certain regulations for the black sea bass pot component for the commercial sector of the South Atlantic snapper-grouper fishery, specifically gear identification at 50 CFR 622.177(a)(4), the sea bass pot configuration restriction at 50 CFR 622.189(b), and restrictions and requirements for sea bass pot buoy line marking at 50 CFR 622.189(g).

The applicant seeks an EFP to determine the following: If the ASBR gear will show a greater than 99 percent

successful deployment and retrieval rate; if ASBRs gear significantly increases the time and/or expense for gear retrieval and recovery versus the current fishing method such that it might affect profitability; if ASBRs gear significantly increases time and/or expense for the repacking of gear for redeployment versus the current fishing method such that it might affect profitability; and if bycatch rates for the modified black sea bass pot fishing configuration described below are greater than those for the traditional single pots.

Under the EFP, the applicant would collect data through an ongoing collaborative effort among different ASBRs manufacturers and fishery industry partners. In addition to this EFP request for exemption from Magnuson-Stevens Act regulations, the applicant would consult with NMFS to ensure the EFP would be consistent with North Atlantic right whale conservation measures currently in place through the ESA and Marine Mammal Protection Act. Fishers participating in this project would self-fund the trial and would keep and sell all catch lawfully harvested by black sea bass pots. The proposed testing area has an approximate perimeter of 87 nm and an area of 501 nm in Federal waters 10 to 32 nm off Townsend, Georgia. Testing would occur in Federal waters in depths between 10 and 30 m. The proposed testing area is outside the November 1 through April 30 area prohibition on the use of black sea bass pots. The testing would not occur in special management zones listed in 50 CFR 622.182((a)(1)(i) and (ii)) or the North Atlantic Right Whale Critical Habitat Area.

Black sea bass pots would be fished as singles with a traditional configuration (control pots) during August and September 2020. The control pots would yield data relative to the time used to retrieve and rebait traditional black seas bass pots that are fished per current regulations. Experimental configurations of black sea bass pots (described below) would be fished without vertical buoy lines on live bottom in the vicinity with the control pots. Using the ASBRs, the applicant would utilize virtual gear marking of the pots (marking of gear deployment location with chartplotters, GPS, and manufacturer-provided software). The applicant would also evaluate the feasibility of use of various virtual gear marking systems and share the results with fishery management partners.

Each pot deployment (ASBRs and control combined) under the EFP would be limited to 35 total pots with up to

300 gear hauls, with an average soak time of 90–120 minutes per configuration. Over the period of the EFP, the applicant expects to conduct 5 days total of testing in August and September 2020. The applicant intends to collect data from 90 traditional black sea bass pot deployments and 270 ASBRS gear deployments.

#### **EFP Black Sea Bass Pot Configurations**

Under the EFP, four regulation-sized pots would be connected together with wire connecting clips or zip ties so that only one ASBRS gear device is needed to retrieve four connected pots. Each pot would have the standard black sea bass pot single entrance and would possess one back panel of 2-inch (5.1-cm) uniform mesh. The connected four traps would test both one and two single entrances (on adjacent sides of single traps to replace the allowable two opposite entrances) to four regulation-sized trap interiors and would otherwise comply with the requirements for black sea bass pot dimensions and construction in the South Atlantic. This experimental gear design of the four connected pots is not a chevron-style fish trap, it is standard black sea bass pots connected to adjacent standard black sea bass pots. The goal of this modification is to examine ways to reduce procurement and implementation costs associated with the number of required ASBRSs to fish 35 pots.

The control traps used in the EFP would also be black sea bass pots, with a uniform back panel mesh size of 2-inch (5.1-cm) or greater, and a uniform all over mesh size on remaining sides of 1.5 inches (3.8 cm) or greater. A four pot trawl of single standard black sea bass pot gear would be deployed to compare the catchability between the two configurations.

#### **EFP Gear Markings**

Two of the technologies that would be used in the EFP utilize lift bags and buoys and are therefore unable to be line-marked as they do not incorporate line into their design. For the other technologies being tested under the EFP, all buoy lines on ASBRS gear types that use stored line would be marked in accordance with the most recent requirements per the Atlantic Large Whale Take Reduction Plan and Federal regulations, and would have weak links with a maximum breaking strength of 600 lb (272 kg), 1,700 lb (771 kg) maximum breaking strength sleeves, and line with a breaking strength of less than 2,200 lb (998 kg). These systems that incorporate line would only be fished inshore of the seasonal closure

area of the commercial black sea bass pot component of the snapper-grouper fishery (50 CFR 622.183(b)(6)(i) and (ii)).

#### **EFP Buoy Line**

Six of the eight currently available ASBRS devices require the use of a line for retrieval that is contained and stored at depth by a line management system. The other two release devices do not use line, but instead, utilize the inflation of either a lift bag or inflatable buoy to pull a lead trap to the surface. The styles of line storage vary with device design and includes square, rectangular, domed, circular, and conical cages, oyster mesh bags, canisters, and spools. These have been successfully used in trials and testing in a variety of active fishing operations in the United States and worldwide.

Four of the ASBRS devices in the EFP require floating line to return the buoy or buoys to the surface for retrieval. Currently, the average time for appearance of buoys at depths greater than 100 ft (30.5 m) is approximately 3 minutes. Retrieval generally takes less than 2 minutes, which means that any floating line would be at the surface for less than 5 minutes, and during which time the fishing vessel would be within 20–30 ft (6.1–9.1 m) of the line. Two of the release devices do not incorporate line longer than 10 ft (3.1 m) in their design, and two devices use a harness that clips to the pot. The remaining devices use less than 150 ft (45.7 m) of line which would be stowed inside either a bag or on a spool. Sinking line cannot be used for any ASBRS as it would create a negatively buoyant strain on the buoys and not effectively allow for their return to the surface. All of the ASBRSs with a line storage system would need to be attached between the trap and the buoy. If necessary, several of the ASBRSs may also require a small anchor or weight to be attached between the pot and line-storage device or buoy in areas with higher current to keep them from fouling in the pot, as well as to ensure they are not dragged from their intended deployment area. For lift bag and buoy systems, the actual systems would be secured between the pot and the buoy/bag.

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 fishing gear testing 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 agency of the affected state, the South Atlantic Fishery Management Council, and the U.S. Coast Guard, and a determination that the activities to be taken under the EFP are consistent with all applicable laws.

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

Dated: July 9, 2020.

**Ngagne Jafnar Gueye,**

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

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## **DEPARTMENT OF COMMERCE**

### **National Oceanic and Atmospheric Administration**

[RTID 0648–XA242]

#### **Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to National Wildlife Refuge Complex Research, Monitoring, and Maintenance Activities in Massachusetts**

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

**ACTION:** Notice; request for comments on proposed Renewal incidental harassment authorization.

**SUMMARY:** NMFS received a request from the U.S. Fish and Wildlife Service (USFWS) for the Renewal of their currently active incidental harassment authorization (IHA) to take marine mammals incidental to conducting biological research, monitoring, and maintenance at the Eastern Massachusetts (MA) National Wildlife Refuge Complex (Complex). These activities are identical to those covered in the current authorization. Pursuant to the Marine Mammal Protection Act (MMPA), prior to issuing the currently active IHA, NMFS requested comments on both the proposed IHA and the potential for renewing the initial authorization if certain requirements were satisfied. The Renewal requirements have been satisfied, and NMFS is now providing an additional 15-day comment period to allow for any additional comments on the proposed