



## **DEPARTMENT OF COMMERCE**

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

**[RIN 0648-XA845]**

#### **Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permits**

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

**ACTION:** Notice; request for comments.

**SUMMARY:** The Assistant Regional Administrator for Sustainable Fisheries, Greater Atlantic Region, NMFS, has made a preliminary determination that an Exempted Fishing Permit application contains all of the required information and warrants further consideration. The Exempted Fishing Permit would allow two commercial fishing vessels to use large mesh gillnet gear to collect pre-construction data on the abundance, size structure, and distribution of monkfish and winter skate in the South Fork Wind Farm work area and adjacent waters, under the direction of the Commercial Fisheries Research Foundation. Regulations under the Magnuson-Stevens Fishery Conservation and Management Act require publication of this notification to provide interested parties the opportunity to comment on applications for proposed Exempted Fishing Permits.

**DATES:** Comments must be received on or before **[INSERT DATE 15 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** You may submit written comments by any of the following methods:

- *Email:* [nmfs.gar.efp@noaa.gov](mailto:nmfs.gar.efp@noaa.gov). Include in the subject line "CFRF South Fork Wind Farm Gillnet EFP."

**FOR FURTHER INFORMATION CONTACT:** Louis Forristall, Marine Resources Management Specialist, 978-281-9321, [Louis.Forristall@noaa.gov](mailto:Louis.Forristall@noaa.gov).

## **SUPPLEMENTARY INFORMATION:**

The Commercial Fisheries Research Foundation (CFRF) submitted a complete application for an Exempted Fishing Permit (EFP) in support of its South Fork Wind Farm (SFWF) Gillnet Survey on October 16, 2020. The proposed research would use large-mesh gillnet gear in a Before-After-Control-Impact study design to collect pre-construction data on the abundance, size structure, and distribution of monkfish, winter skate, and other species in the SFWF lease area and adjacent waters.

This EFP would temporarily exempt up to two active vessels and six backup vessels from: Possession limits and minimum size requirements specified in 50 CFR 648 subparts A, B, and D through O for on-board sampling and donation of sampled catch; and gillnet tagging requirements in 50 CFR 648 subparts A and F, so gillnets used in the surveys can be marked with tags from CFRF.

A rotational sampling schedule would be used between a survey site inside the SFWF lease area and two reference survey areas outside the lease area. Individual surveys would sample one or two of these areas per trip, depending on the rotational schedule and steam time between the areas. Each survey would consist of four 1-day trips: two trips to set the gear and two trips to retrieve gear and sample the catch. Survey trips would take place seasonally four times per month from April-June and again from October-December for each project year resulting in four sampling periods: October 2020-December 2020; April 2021-June 2021; October 2021-December 2021; and April 2022-June 2022. In total, 90 nets would be sampled after 48 hour soak times twice per month during the survey periods.

Vessels sampling gillnets under this EFP would declare out of fishery (DOF) to avoid using a monkfish day-at-sea (DAS) while carrying out the research activities covered by this EFP. Vessels operating as DOF and solely conducting survey activities would not need to use monkfish DAS and a DAS exemption would be unnecessary. If

vessels combine commercial activities with survey activities (i.e., setting or hauling commercial gear) the operator would need to be declared into the monkfish DAS program. The proposed research area would fall within the bounds of the monkfish Southern Fishery Management Area (SFMA). Current effort controls for the SFMA were established in Framework Adjustment 12 to the Monkfish Fishery Management Plan (FMP). Framework 12 documented a decline in landings over the last ten years and decreased the SFMA Annual Catch Limit (ACL). Even with the decreased ACL in the SFMA, the limit is higher than landings in recent fishing years. Therefore, the fishing effort from this EFP would not be beyond the scope of what was considered in Framework 12. Additionally, this EFP would not result in a significant increase in catch from what was considered in the Supplemental Information Report completed for Framework Adjustment 8 to the Northeast Skate Complex FMP. A vessel conducting survey activities under this EFP would be required to adhere to its permit-based Vessel Trip Reporting requirements to ensure accurate catch accounting. Catch from this EFP will be counted against the monkfish and skate ACLs, but not against the in season Total Allowable Landings limits for the commercial skate fisheries.

Participating vessels would use gillnet strings with six, 300-foot net panels of 12-inch mesh and tie-downs. Gillnet strings would be compliant with all regulations, including the Atlantic Large Whale Take Reduction Plan, and will be using Future Oceans Marine Mammal Deterrent Devices (10Khz) to warn harbor porpoises of nearby nets. The EFP would exempt vessels from gillnet tagging requirements and all buoys would be labeled with “CFRF” and the EFP permit number to mark them as research gear.

CFRF staff would be on board for all sampling trips of survey nets. No catch from the survey nets would be landed for sale. From each haul, researchers would record the number and size for all species, and all organisms would be identified to the species

level. Length frequency distribution would be recorded for dominant species in the catch up to 50 individuals, as well as for any endangered species. Stomach content analysis would be performed for commercially important species (monkfish, winter skate, gadids, black sea bass) to determine the prey composition for these species during the pre-construction period in the offshore wind lease area. A maximum of 5 individuals per species and 10 total animals per string will be sampled. Otoliths would be sampled from all fish that are sacrificed for biological sampling.

If a sturgeon is encountered, the protocols outlined in the observer on-deck reference guide will be followed. This will include photographing the animal, taking a fin clip unless it is a shortnose sturgeon, measuring fork length and weight if possible, recording any injuries or bruises, and returning the animal to the water as soon as these activities are completed.

Estimated catch of federally regulated species that would be expected under this EFP is shown in Table 1. Survey catch estimates were derived from commercial catch data for similar gillnet gear reported in NOAA Technical Memorandum NMFS-NE-254 2019 Discard Estimation, Precision and Sample Size Analyses for 14 Federally Managed Species Groups in the Waters off the Northeastern United States (<https://repository.library.noaa.gov/view/noaa/23007>). The gear configuration, location, and soak times of these trips is unknown, and would likely vary from what would be used under this EFP. It is also likely that the catch from this survey would be less than the estimates provided below because they are derived from fishing data from trips that often targeted these species directly with commercial fishing gear in areas where they are more abundant.

**Table 1 -- Estimated Catch of Federally Regulated Species Per Survey Trip, and Total Estimated Catch**

<b>Species Name/Species Group</b>	<b>Catch per Area per Trip</b>	<b>Estimated Total Survey Catch</b>
Skate Complex	1,516.5 lb (687.9 kg)	109,184.8 lb (49,525.4 kg)

Monkfish	606.1 lb (274.9 kg)	43,638.0 lb (19,793.9 kg)
Spiny Dogfish	140.1 lb (63.5 kg)	10,147.3 lb (4602.7 kg)
Fluke	7.2 lb (3.3 kg)	1,443.9 lb (654.9 kg)
Atlantic Halibut	6.7 lb (3.0 kg)	561.8 lb (254.8 kg)
Atlantic Cod	6.5 lb (2.9 kg)	520.5 lb (236.1 kg)
Pollock	3.5 lb (1.6 kg)	483.8 lb (219.4 kg)
Bluefish	1.8 lb (0.8 kg)	467.1 lb (211.9 kg)
Silver Hake	1.8 lb (0.8 kg)	248.4 lb (112.7 kg)
White Hake	1.3 lb (0.6 kg)	132.3 lb (60.0 kg)
Haddock	1.0 lb (0.5 kg)	127.1 lb (57.7 kg)
American Plaice	0.4 lb (0.2 kg)	126.4 lb (57.3 kg)
Scup	0.4 lb (0.2 kg)	90.4 lb (41.0 kg)
Winter Flounder	0.4 lb (0.2 kg)	73.2 lb (33.2 kg)
Tilefish	0.2 lb (0.1 kg)	29.5 lb (13.4 kg)
Golden Tilefish	0.2 lb (0.1 kg)	28.4 lb (12.9 kg)
Black Sea Bass	0.2 lb (0.1 kg)	28.0 lb (12.7 kg)

If approved, CFRF may request minor modifications and extensions to the EFP throughout the study. EFP modifications and extensions may be granted without further notice if they are deemed essential to facilitate completion of the proposed research and have minimal impacts that do not change the scope or impact of the initially approved EFP request. Any fishing activity conducted outside the scope of the exempted fishing activity would be prohibited.

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

Dated: February 26, 2021.

**Kelly Denit,**

*Director, Office of Sustainable Fisheries,*

*National Marine Fisheries Service.*

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