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PUBLIC HEARING DRAFT AMENDMENT 4 TO THE FISHERY MANAGEMENT PLAN FOR THE SPINY LOBSTER FISHERY OF PUERTO RICO AND THE U.S. VIRGIN ISLANDS AND AMENDMENT 8 TO THE SPINY LOBSTER FISHERY MANAGEMENT PLAN OF THE GULF OF MEXICO AND SOUTH ATLANTIC

(Including the Draft Environmental Impact Statement, Regulatory Impact Review, and Initial Regulatory Flexibility Analysis)

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TABLE OF CONTENTS

Acronyms/Abbreviations vi
DRAFT ENVIRONMENTAL IMPACT STATEMENT (DEIS) COVER SHEET x
Fishery Impact Statement – Social Impact Analysis xi
1.0 Executive Summary 1
2.0 Introduction 2
2.1 Background 2
2.2 Management History 6
3.0 PURPOSE AND NEED 8
4.0 MANAGEMENT ALTERNATIVES 9
4.1 Action 1: Minimum Size Limits for Spiny Lobster (*Panulirus argus)* Imported into the United States 9
4.2 Action 2: Implement Other Import Restrictions on Spiny Lobster 14
4.3 Preferred Alternatives 16
4.4 Alternatives Considered but Rejected 16
5.0 AFFECTED ENVIRONMENT 17
5.1 Physical Environment 17
5.2 Biological Environment 18
5.2.1 Spiny Lobster (*Panulirus* argus) 18
5.2.2 Protected Species 25
5.2.2.1 ESA-Listed Sea Turtles 26
5.2.2.2 ESA-Listed Marine Fish 28
5.2.2.3 ESA-Listed Marine Invertebrates 28
5.3 Description of the Economic and Social Environment 29
5.3.1 Introduction 29
5.3.2. Global Commercial Production of Lobster & Caribbean Spiny Lobster 30
5.3.5.1.2 Florida County Ordinances 52
5.3.5.2 Puerto Rico 53
5.3.5.3 U.S. Virgin Islands 53
5.3.6 Foreign Laws and International Agreements 54
5.3.7 Florida Commercial and Recreational Harvest 56
5.3.8 Florida Counties with Commercial Landings of Spiny Lobster 59
5.3.8.1 Introduction 59
5.3.8.2 Monroe County 60
5.3.8.3 Dade (Miami-Dade) County 66
5.3.8.4. Palm Beach County 71
5.3.8.5. Broward County 74
5.3.9 Puerto Rico 77
5.3.10 U.S. Virgin Islands 80
5.3.11 Hurricanes 82
5.4 Administrative Environment 83
5.4.1 Federal Fishery Management 83
5.4.2 State Fishery Management 84
6.0 ENVIRONMENTAL CONSEQUENCES 84

6.1 Action 1: Minimum Size Limits for Spiny Lobster (*Panulirus argus)* Imported into the United States 84
6.1.1 Direct and Indirect Effects on the Physical, Biological, and Ecological Environment 84
6.1.2 Direct and Indirect Effects on the Economic Environment 88
6.1.3 Direct and Indirect Effects on the Social Environment 88
6.1.4 Direct and Indirect Effects on the Administrative Environment 89
6.2 Action 2: Other Import Restrictions 91
6.2.1 Direct and Indirect Effects on the Physical, Biological, and Ecological Environment 91
6.2.2 Direct and Indirect Effects on the Economic Environment 92
6.2.3 Direct and Indirect Effects on the Social Environment 93
6.2.4 Direct and Indirect Effects on the Administrative Environment 94
6.3 Comparison of Alternatives to Magnuson-Stevens Act National Standards 96
6.4 Mitigation Measures 97
6.5 Cumulative Effects Analysis 98
6.6 Unavoidable Adverse Effects 101
6.7 Relationship Between Short-Term Uses and Long-Term Productivity 101
6.8 Irreversible and Irretrievable Commitments of Resources 101
6.9 Any Other Disclosures 102
6.10 Evaluation of Significance Factors 102
7.0 REGULaTORY IMPACT REVIEW 104
7.1 Introduction 104
7.2 Problems and Objectives in the Fishery 105
7.3 Methodology 105
7.4 Description of the Fisheries 105
7.5 Impacts of the Management Alternatives 106
7.5.1 Action 1: Minimum Conservation Sizes of Spiny Lobster (Panulirus argus) Import Products into the United States 106
7.5.1.1 Alternative 1 106
7.5.1.2 Alternative 2 of Action 1 110
7.5.1.2.1 Part A of Alternative 2 of Action 1 111
7.5.1.2.2 Part B of Alternative 2 of Action 1 116
7.5.1.2.3 Total Economic Impact of Alternative 2 of Action 1 116
7.5.1.3 Alternative 3 of Action 1 117
7.5.1.4 Comparison of Alternatives of Action 1 117
7.5.2 Proposed Action 2: Establish other restrictions on importation of Caribbean spiny lobster 118
7.5.2.1 Alternative 1 of Action 2 118
7.5.2.2 Alternative 2 of Action 2 120
7.5.2.2.1 Prohibiting Importation of Meat Removed from the Shell 120
7.5.2.2.2 Prohibiting Importation of Berried Lobsters or Removal of Eggs or Pleopods 121
7.5.2.2.3 Total Economic Impact of Alternative 2 of Action 2 122
7.5.2.3 Alternative 3 of Action 2 123
7.5.2.4 Alternative 4 of Action 2 123

7.5.2.5 Comparison of Economic Costs and Benefits of Alternatives 123
7.6 Public and Private Costs of Regulations 124
7.7 Determination of Significant Regulatory Action 124
8.0 REGULATORY FLEXIBILITY ANALYSIS 125
8.1 Introduction 125
8.2 Statement of need for, objectives of, and legal basis for the proposed rule 125
8.3 Identification of Federal rules which may duplicate, overlap or conflict with the proposed rule 126
8.4 Description of the projected reporting, record-keeping and other compliance requirements of the proposed rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for the preparation of the report or records 126
8.5 Description and estimate of the number of small entities to which the proposed rule will apply 126
8.5.1 Small Businesses that Could Be Affected by Alternatives 2 and 3 128
8.5.1.1 Small Businesses that Could Be Affected by Part A of Alt. 2 128
8.5.1.2 Small Businesses that Could Be Affected by Part B of Alt. 2 129
8.5.2 Small Businesses that Could Be Affected by Alternative 3 129
8.5.3 Small Businesses that Could Be Affected by Alternatives 2 - 4 130
8.5.3.1 Small Businesses that Could Be Affected by Alternative 2 130
8.5.3.2 Small Businesses that Could Be Affected by Alternative 3 131
8.5.3.3 Small Businesses that Could Be Affected by Alternative 4 131
8.6 Substantial number of small entities criterion 131
8.7 Significant economic impact criterion 131
8.8 Description of significant alternatives 132
9.0 OTHER APPLICABLE LAWS 132
9.1 Administrative Procedures Act 132
9.2 Coastal Zone Management Act 132
9.3 Information Quality Act 132
9.4 Endangered Species Act 133
9.5 Rivers and Harbors Act of 1899 134
9.6 Clean Water Act 134
9.7 National Marine Sanctuaries Act 135
9.8 Fish and Wildlife Coordination Act 135
9.9 Executive Orders 136
9.9.1 E.O. 12114: Environmental Assessment of Actions Abroad 136
9.9.2 E.O. 12866: Regulatory Planning and Review 137
9.9.3 E.O. 12630: Takings 137
9.9.4 E.O. 13089: Coral Reef Protection 137
9.9.5 E.O. 13112: Invasive Species 137
9.9.6 E.O. 13132: Federalism 138
9.9.7 E.O. 13141: Environmental Review of Trade Agreements 138
9.9.8 E.O. 13158: Marine Protected Areas 138
9.9.9 E.O. 12898: Environmental Justice 138
9.10 Marine Mammal Protection Act 139
9.11 Paperwork Reduction Act 140

9.12 Small Business Act 140
9.13 Magnuson-Stevens Act Essential Fish Habitat Provisions 140
9.14 Migratory Bird Treaty Act 140
9.15 National Environmental Policy Act 141
9.16 Regulatory Flexibility Act 141
9.17 Small Business Act 141
9.18 Public Law 99-659: Vessel Safety 142
10.0 REFERENCES 142
11.0 LIST OF PREPARERS 153
12.0 LIST OF AGENCIES, ORGANIZATIONS, AND PERSONS TO WHOM COPIES OF THE STATEMENT ARE SENT 153
13.0 INDEX 154
APPENDICES 154

ACRONYMS/ABBREVIATIONS

ABC	acceptable biological catch
ACOE	Army Corps of Engineers
ADCNR, MRD	Alabama Department of Conservation and Natural Resources, Marine Resources Division
AFS	American Fisheries Society
ALK	Age Length Key
APA	Administrative Procedure Act
AP	advisory panel
ASA	American Soybean Association
ASAP	Age Structured Assessment Program
ASMFC	Atlantic States Marine Fisheries Commission
ASPIC	Stock Production Model
ATCA	Atlantic Tuna Convention Act
B	Biomass
$B_{CURRENT}$	current biomass of stock
B_{MSY}	Biomass at MSY
BOD	Biological Oxygen Demand
BRD	bycatch reduction device
CFMC	Caribbean Fishery Management Council
CFR	Code of Federal Regulations
COE	Corps of Engineers (Same as ACOE)
ComFIN	Commercial Fisheries Information Network
Council	Gulf of Mexico Fishery Management Council
CPUE	catch per unit effort
CL	Carapace Length
CSL	Caribbean Spiny Lobster
CWA	Clean Water Act
CZMA	Coastal Zone Management Act
DEIS	draft environmental impact statement
DO	dissolved oxygen
DOC	U. S. Department of Commerce
DOI	Department of Interior
DPS	distinct population segment
DQA	Data Quality Act
EA	environmental assessment
EEC	European Economic Community
EEZ	Exclusive Economic Zone
EFH	Essential Fish Habitat
EFP	exempted fishing permit
EIS	Environmental Impact Statement
ELMR	Estuarine Living Marine Resources
E.O.	Executive Order
EPA	Environmental Protection Agency
EPIRB	Emergency Position Indication Radio Beacon
ESA	Endangered Species Act

F	instantaneous fishing mortality rate
FACA	Federal Advisory Committee Act
FAO	Food and Agriculture Organization (United Nations)
FCZ	fishery conservation zone (is now called EEZ)
FDACS	Florida Department of Agricultural and Consumer Services
FDEP	Florida Department of Environmental Protection
FDCA	Federal Drug and Cosmetic Act
FIFRA	Federal Insecticide, Fungicide, and Rodenticide Act
FKNMS	Florida Keys National Marine Sanctuary
FL	fork length
FMP	fishery management plan
FMRI	Florida Marine Research Institute
F_{MSY}	Fishing Mortality Rate Yielding MSY
FMU	fishery management unit
FWC	Florida Fish and Wildlife Conservation Commission
FWRI	Fish and Wildlife Research Institute
GC	general counsel
GCSE	General Counsel Southeast Region
GLM	general linear model
HAPC	Habitat Areas of Particular Concern
HMS	Highly Migratory Species
HPUE	Harvest per unit effort
HSI	Habitat Suitability Index
ICCAT	International Commission on Conservation of Atlantic Tunas
IFQ	Individual Fishing Quotas
IPT	Inter-Disciplinary Project Team
IRFA	initial regulatory flexibility analysis
ITQ	individual transferable quota
LE	Law Enforcement
LEAP	Law Enforcement Advisory Panel
M	instantaneous natural mortality rate
MARFIN	Marine Fisheries Initiative
MDMR	Mississippi Department of Marine Resources
MFMT	Maximum Fishing Mortality Threshold
MMPA	Marine Mammal Protection Act
MMS	Minerals Management Service
MP	million pounds
MPA	Marine Protected Area
MRAG	Marine Resources Assessment Group Americas Corporation
MRFSS	Marine Recreational Fishery Statistics Survey
MSAP	Mackerel Stock Assessment Panel
MSFCMA	Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act)
MSST	Minimum Stock Size Threshold
MSY	maximum sustainable yield
MT	million metric tons

MYPR	maximum yield per recruit
NEPA	National Environmental Policy Act
NGO	non-governmental organization
NMFS	National Marine Fisheries Service
NMSA	National Marine Sanctuaries Act
NOAA	National Oceanic and Atmospheric Administration
NOAA Fisheries	Same as NMFS
NOS	National Ocean Service
NPDES	National Pollutant Discharge Elimination System
OIE	Office of International Epizooties
OMB	Office of Management and Budget
OCSLA	Outer Continental Shelf Lands Act
OSP	OptimumSustainable Population Level
OY	optimum yield
PBR	potential biological removal level
PEIS	Programmatic Environmental Impact Statement
ppm	parts per million (e.g., oxygen)
ppt	parts per thousand (salinity)
RA	Regional Administrator of NMFS
RDSAP	Red Drum Stock Assessment Panel
RecFIN	Recreational Fisheries Information Network
RFA	Regulatory Flexibility Act
RFSAP	Reef Fish Stock Assessment Panel
RIR	regulatory impact review
RSW	running sea water system
SAFMC	South Atlantic Fishery Management Council
SAP	stock assessment panel
SARP	Southeast Aquatic Resources Partnership
SAV	Submerged Aquatic Vegetation
SBA	Small Business Administration
SEAMAP	Southeast Area Monitoring and Assessment Program
SEDAR	Southeast Data Assessment Review (stock assessment)
SEFSC	Southeast Fisheries Science Center of NMFS
SEIS	supplemental environmental impact statement
SEP	Socioeconomic Panel
SERO	Southeast Regional Office (NMFS)
SFA	Sustainable Fisheries Act
SMZ	special management zone
SOPPs	Statement of Organization Practices and Procedures
SPL	saltwater products license (FL)
SPR	spawning potential ratio
SSB and SS	spawning stock biomass
SSB/R	spawning stock biomass per recruit
SSC	Scientific and Statistical Committee
TAC	total allowable catch
TED	turtle excluder device

TEWG	turtle expert working group
TL	Tail Length
TOC	total organic carbon
TSV	Taura Syndrome Virus
TW	Tail Weight
USCG	United States Coast Guard
USFWS	United States Fish and Wildlife Service
USGS	United States Geological Survey
VPA	virtual population analysis
WSSV	white spot syndrome virus
YPR	yield per recruit
Z	instantaneous total mortality rate

DRAFT ENVIRONMENTAL IMPACT STATEMENT (DEIS) COVER SHEET

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Name of Action

Amendment 4 to the Spiny Lobster Fishery Management Plan of Puerto Rico and the U.S. Virgin Islands and Amendment 8 to the Spiny Lobster Fishery Management Plan of the Gulf of Mexico and South Atlantic.

Type of Action

(X) Administrative
(X) Draft
( ) Legislative
( ) Final

Abstract

The United States is a major importer of spiny lobster, importing over 88,000 tons (over 194 million lbs) over the past 10 years, worth an estimated $2.27 billion dollars. The United States imports over 90% of the spiny lobster harvested in South and Central America and the Caribbean countries. The major exporters to the United States are the Bahamas, Brazil, Honduras and Nicaragua. All of these exporting countries have some form of minimum size requirement, but they are not standardized and enforcement is severely lacking. Therefore, NOAA Fisheries Service in coordination with the Caribbean, South Atlantic, and Gulf of Mexico Fishery Management Councils considering minimum conservation standards on imports to curtail the flow of undersized lobster harvested in foreign countries. Eliminating the primary market for undersized lobster is expected reduce the harvest of undersized animals and increase the spawning stock biomass and long-term potential yield within the pan-Caribbean spiny lobster fishery.

FISHERY IMPACT STATEMENT – SOCIAL IMPACT ANALYSIS

This integrated document contains all elements of the Plan Amendment, Draft Supplemental Environmental Impact Statement (DSEIS), Initial Regulatory Flexibility Analysis (IRFA), Regulatory Impact Review (RIR), and Social Impact Assessment (SIA)/Fishery Impact Statement (FIS). A table of contents for the SIA/FIS is provided separately to aid reviewers in referencing corresponding sections of the Amendment.

	Page
Table of Contents	x
Introduction	x
Data Limitations and Methods	x
Summary of Social Impact Assessment	xi

INTRODUCTION

Mandates to conduct Social Impact Assessments come from both the National Environmental Policy Act (NEPA) and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). NEPA requires federal agencies to consider the interactions of natural and human environments by using a "...systematic, interdisciplinary approach which will ensure the integrated use of the natural and social sciences...in planning and decision-making" [NEPA section 102 (2) (a)]. Under the Council on Environmental Quality's (CEQ, 1986) Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act, a clarification of the terms "human environment" expanded the interpretation to include the relationship of people with their natural and physical environment (40 CFR 1508.14). Moreover, agencies need to address the aesthetic, historic, cultural, economic, social, or health effects which may be direct, indirect or cumulative (Interorganizational Committee on Guidelines and Principles for Social Impact Assessment, 1994).

Recent amendments to the Magnuson-Stevens Act require FMPs address the impacts of any management measures on the participants in the affected fishery and those participants in other fisheries that may be affected directly or indirectly through the inclusion of a fishery impact statement [Magnuson-Stevens Act section 303 (a) (9)]. Most recently, with the addition of National Standard 8, FMPs must now consider the impacts upon fishing communities to the extent practicable to assure their sustained participation and minimize adverse economic impacts upon those communities [Magnuson-Stevens Act section 301 (a) (8)]. Consideration of social impacts is a growing concern as fisheries experience increased participation and/or declines in stocks. With an increasing need for management action, the consequences of such changes need to be examined to minimize the negative impacts experienced by the populations concerned to the extent practicable.

DATA LIMITATIONS AND METHODS

Social impacts are generally the consequences to human populations that follow from some type of public or private action. Those consequences may include alterations to "...the ways in which people live, work or play, relate to one another, organize to

meet their needs and generally cope as members of a society..." (Interorganizational Committee on Guidelines and Principles for Social Impact Assessment, 1994:1). In addition, included under this interpretation are cultural impacts that may involve changes in values and beliefs, which affect the way people identify themselves within their occupation, communities and society in general. Social impacts analyses help determine the consequences of policy action in advance by comparing the status quo with the projected impacts. Therefore, it is important that as much information as possible concerning a fishery and its participants be gathered for an assessment.

It is important to identify any foreseeable adverse effects on the human environment. With quantitative data often lacking, qualitative data can be used to provide a rough estimate of some of the impacts based on the best available science. In addition, when there is a body of empirical findings available from the social science literature, it needs to be summarized and referenced in the analyses.

SUMMARY OF SOCIAL IMPACT ASSESSMENT

This section will be completed when preferred alternatives are selected.

1.0 EXECUTIVE SUMMARY

Fisheries for spiny lobster (*Panulirus argus*) exist throughout its range in the Caribbean and tropical western Atlantic. Foreign and U.S. scientists and fisheries managers all concur the Caribbean spiny lobster is fully exploited or over-exploited in much of its range (Cochrane and Chakalall 2001). Spiny lobsters are being harvested below the respective Continental and Caribbean U.S. minimum size limits; this is adversely impacting recruitment throughout Florida and the Caribbean because of the distribution and dispersal of larvae during their long larval phase. A reduction of effort on undersized lobster and a more comprehensive enforcement tool would increase spawning stock biomass and increase potential yield. The lobster seafood industry has even recognized this fact and has asked respective governments to address the illegal harvest and exportation of undersized lobster tails to the United States.

This Amendment/EIS will examine two actions with various alternatives to restrict imports of spiny lobster into the United States to minimum conservation standards to achieve an increase in the spawning biomass of the spiny lobster stock and increase long-term yields from the fishery. Limiting Caribbean spiny lobster imports to a uniform minimum size that protects juvenile spiny lobsters would help stabilize the reproductive potential of the Caribbean spiny lobster by reducing the amount of juvenile spiny lobster mortality in foreign fisheries. Such action would result in the harvest of larger lobsters in exporting countries and approximately 50 percent of these larger lobsters will be capable of spawning, thus increasing the probability of dispersal of Caribbean spiny lobster larvae throughout the species' range. Scientists state that the harvest of juvenile tails in other Caribbean countries impacts the sustainability of U.S. lobster stocks because these harvesting countries produce the parental stocks and larvae for the U.S. stocks. In other words, if you destroy brood stock off the coast of Latin America, you effectively destroy the fisheries of other countries, regardless of the management schemes in those countries. This animal is an example of a shared resource in that it has no national boundaries because of its dependency on the ocean currents for its larval distribution.

Action 1 is intended to improve the status of the spiny lobster stock pan-Caribbean by providing an incentive for foreign nations to implement conservation standards designed to protect the spawning stock and therefore the reproductive ability of the spiny lobster population. The most effective means for creating this incentive is to improve NOAA law enforcement's (LE) capabilities in preventing undersized lobster from being imported to the United States and eliminating the market for undersized lobster tails. By implementing an import restriction on size, LE will be more capable of tracking undersized lobster shipments and developing criminal cases against suspected importers of undersized lobster, thus eliminating the market for undersize lobster tails.

Action 2 is designed to: 1) provide further protections to undersized lobsters, and 2) protect berried (egg-bearing) females. If any importation conservation standards are to have the desired effect, then the trade in "lobster meat" must be stopped to close the potential loophole of harvesting undersize lobster, processing it into meat, and then making it available in the market. Unshelled lobster tail meat shipped in its bulk raw

form cannot be accurately measured and this practice has been performed by unscrupulous lobster exporters / importers to thwart law enforcement's efforts to regulate a minimum size. The protection of berried females (or those that were, prior to being stripped) is imperative if the minimum conservation sizes are implemented in order to protect the spawning stock biomass; if no protections are afforded to the females as they are actively reproducing, then all benefits from increasing the spawning stock biomass have been lost. Both of these actions will aid in increasing the spawning stock biomass and protecting the spiny lobster resource.

2.0 INTRODUCTION

2.1 Background

The Caribbean spiny lobster (*Panulirus argus*) has a relatively long planktonic larval phase, which is referred to as the puerulus stage. Planktonic larvae are widely dispersed by ocean currents before they settle and recruit to a specific habitat. The long larval duration for spiny lobsters accounts for connectivity from their source areas to their settlement areas. Recruitment is dependent on environmental conditions, such as temperature and salinity, and on the availability of spawning adults, which is influenced by fishery factors, such as fishing pressure and minimum size limit compliance. These fishery factors can be affected by having an adequate regulatory program to protect spiny lobster (e.g., size limits and protections for berried females) and having adequate enforcement of the program. Studies also have shown local gyres or loop currents in certain locations could influence the retention of locally spawned larvae. In addition, benthic structures such as coral reefs may disturb the flow of water and lead to the settlement of larvae in a particular location (Lee et. al. 1994).

Most of the Caribbean spiny lobster research has been conducted on the Florida population, but the interconnectivity issue also has been studied in the Caribbean region and is recognized and discussed in the Caribbean Council's Spiny Lobster Fishery Management Plan. Caribbean spiny lobster ranges throughout the western Atlantic Ocean from North Carolina to Brazil, including Bermuda, the Bahamas, and all of the Caribbean and Central American areas in between (Hernkind 1980). DNA analysis indicates a single stock structure for the Caribbean spiny lobster (Lipcius and Cobb, 1994; Silberman and Walsh 1994) throughout its range.

Some Caribbean spiny lobster fisheries managed by other countries (i.e., Brazil, Nicaragua, and Ecuador) are reportedly heavily exploited. These countries export millions of pounds of lobsters to the United States that are at or below their mean size at reproduction. Overexploiting spiny lobster stocks in foreign fisheries could jeopardize the abundance and structure of U.S. stocks because the larval recruitment of U.S. stocks is dependent on the reproductive potential of stocks managed by other countries. The potential for overfishing the Caribbean spiny lobster is relatively high because a lucrative market exists for all sizes of this species. Approximately 90 percent of the Caribbean spiny lobster marketed in the United States is harvested by foreign fisheries managed by Central and South America countries.

Limiting Caribbean spiny lobster imports to a uniform minimum size that protects juvenile spiny lobsters would help stabilize the reproductive potential of the Caribbean spiny lobster by reducing the amount of juvenile spiny lobster mortality in foreign fisheries. Such action is expected to result in the harvest of larger lobsters in exporting countries and approximately 50 percent of these larger lobsters will be capable of spawning, thus increasing the probability of dispersal of Caribbean spiny lobster larvae throughout the species' range. Scientists state that the harvest of juvenile tails in other Caribbean countries impacts the sustainability of U.S. lobster stocks because these harvesting countries produce the parental stocks and larvae for the U.S. stocks. In other words, if you destroy brood stock off the coast of Latin America, you effectively destroy the fisheries of other countries, regardless of the management schemes in those countries. This animal is an example of a shared resource in that it has no national boundaries because of its dependency on the ocean currents for its larval distribution.

There are two main issues associated with addressing the importation of undersize lobsters. First is the importation of lobsters which are below the domestic size limits, and concurrently the mean size at sexual maturity, which were legally harvested in another nation's waters. Second is the importation of lobsters below the domestic size limit, which were illegally harvested in violation of harvest restrictions in other nations. This second activity is already illegal, as the Lacey Act prohibits the importation of lobster harvested in violation of the laws of another nation.

Establishing a minimum size for imports would address both of these issues. By restructuring the importation of lobsters smaller than the domestic size limit, it will severely limit, if not eliminate, the market for legally and illegally harvested undersized lobster. This is expected to serve as an incentive for countries that do not currently have such measures to implement consistent size limits in order to protect juvenile lobster.

Establishment of a uniform minimum size for spiny lobsters imported to the U.S. would assist law enforcement officers in restricting illegal product in the market. The "big four" exporters to the United States are the Bahamas, Brazil, Honduras, and Nicaragua. All these countries have some form of minimal size limit for the Caribbean spiny lobster, but unfortunately this size limit is not standardized. Furthermore, exporting countries do not have the law enforcement resources to effectively monitor shipments to the United States.

The United States imports millions of dollars of undersized lobster each year. Most of these imports go undetected because of the enforcement loopholes that exist for international poachers. These loopholes include: (a) the lack of a U.S. minimal size limit that is applicable for all imports; (b) the use of secretive codes to disguise the undersized lobster tail shipments; (c) the increased use of "trans-shipments through countries of convenience" (i.e. shipping illegal product thru countries that have weaker lobster laws and changing the country of origin to avoid investigators); and (d) shipping the illegal tails to U.S. ports, where inspectors are not as savvy to the lobster smuggling issues.

Minimum size limits are typically used to protect the breeding stock in a fishery, and are often defined at a size that will allow individuals in a population the opportunity to breed

at least once before being subject to harvest. The 3 inch (7.6 cm) carapace length (CL) minimum size limit restriction on imports that is currently being considered by the three regional Fishery Management Councils and NOAA Fisheries Service would provide about 50 percent of spiny lobsters the opportunity to spawn at least once before they can be landed by a fishery (Lyons et al. 1981). As an indication of the importance of establishing a minimum import size close to the size at maturity for spiny lobster, each Caribbean spiny lobster measuring 3" CL typically produces about 300,000 eggs per clutch. However, a more recent study demonstrates the potential difficulty in determining the size at maturity for spiny lobster. Bertelsen and Matthews (2001) compared spiny lobster fecundity between adjoining populations of spiny lobster in Florida. The authors found those lobsters in the heavily fished Florida Keys fishery reproduced at a smaller size than those in the sanctuary of the Dry Tortugas National Park. Lobsters from the fishery less than 70 mm (2.75 inches) were found to produce eggs, whereas very few lobsters less than 80 mm (3.15 inches) CL and none less than 70 mm CL produce eggs in the sanctuary population.

Current regulations, established in 1983, prohibit the possession of egg-bearing females, and established a minimum size limit (3.5 inches) in terms of carapace length. The Caribbean Fishery Management Council rejected a minimum weight limit because of difficulty of weighing spiny lobsters at sea.

NOAA's Office of Law Enforcement strongly recommends an import restriction include a minimum size limit that utilizes a tail weight measured in ounces (using carapace and tail length conversions). All spiny lobsters will be required to be landed with the shell attached. The landing limit will be converted to a minimum weight limit range (in ounces and grams), noting that Florida Fish and Wildlife Commission scientists have published conversion tables that could be used to determine the most applicable length and weight requirements. The implementation of a minimum weight in ounces is critical for NOAA law enforcement as the seafood industry, processes, packs, ships, exports, imports, and sells lobster tails by weight. In addition, U.S. Customs' entry documents and the seafood industry's sales, storage and bills of lading documents typically include the tail weights (in ounces), making this measurement an effective enforcement tool to track undersized lobster, even after it enters the U.S. port.

Preliminary discussions with all three regional Fishery Management Councils and the state of Florida indicate broad support for a minimum size landing limit restriction on Caribbean spiny lobster imports. The intent is to maintain an open line of dialogue with all parties throughout the fishery management plan amendment process to ensure any problems or issues that surface as the proposed action is developed are satisfactorily addressed.

Since 2003, an effort has been underway to establish a U.S. minimal size limit that would be applicable to spiny lobster imports. This effort has been supported by the U.S. Department of Justice, NOAA's Office of Law Enforcement, Southeast Region, three regional Fishery Management Councils and, recently, by some leading seafood industry corporations, which realize the spiny lobster fishery is being decimated throughout the

Caribbean basin. The United States has other existing restrictions on seafood imports involving American lobster, imported swordfish and imported tuna.

There are about 45 species of spiny lobsters species (commonly called rock lobster) in the family Palinuridae throughout the world with several occurring in the Caribbean basin. The Caribbean spiny lobster (*P. argus*; aka red lobster tail and Florida spiny lobster) is the predominant species making up approximately 95 percent of the lobster harvested and marketed in the Caribbean basin countries (i.e., Florida, Central America (Atlantic side), Bahamas, and Brazil). Symmetrical spots on the tail segments and unique markings on the tail fins of this species make it morphologically distinguishable from other species.

Spiny lobsters that originate from the Caribbean basin are tailed, sorted by weight, packed in 10-pound boxes, and shipped to the United States for consumption. Based on law enforcement officer's experiences in inspecting these boxes, the contents are exclusively one species (Caribbean spiny lobster). This is true for the Central American countries (Atlantic side), the Caribbean Island countries and Florida. Brazil poses a slight problem because it mixes Caribbean spiny lobster with *P. lauvicauda* in some shipments that are exported to the United States. However, Brazilian authorities have identified the problem and are attempting to implement a rule that would change this practice and would require species to be isolated before packing.

NOAA's Office of Law Enforcement, Southeast Region, has made several significant Lacey Act cases involving undersized lobster (w/ Honduras, Nicaragua, Bahamas, and an ongoing one with Brazil). These cases typically are criminal and are rather complex in nature due to the need for cooperation with foreign governments, poorly written foreign laws, and the millions of dollars of illegal proceeds. A U.S. minimum restriction applicable to spiny lobster imports would greatly assist law enforcement and federal prosecutors to stem the illegal and profitable flow of undersized imports into the U.S. markets.

International

In an international fishery like that of spiny lobster, "consensus" on addressing concerns is important, as are U.S. efforts to engage other countries in negotiations/agreements. FAO/WECAFC has organized five workshops on spiny lobster in cooperation with most regional agencies and institutions, dealing with various projects: Belize City, Belize (1997); Merida, Mexico (1998, 2000, and 2006); and Havana, Cuba (2002). A representative from the Caribbean Council attended all the workshops. A staff member of NOAA Fisheries Service's Southeast Region attended the 2006 workshop in Merida.

The 2006 Merida workshop was divided into two parts. The first part occurred September 19- 27, and was attended by senior scientists from lobster producing nations. The second part occurred September 28-29, and was attended by senior fishery managers, senior scientists, representatives from the fishing and processing industry, and selected lobster importers. The objectives of the workshop were: (1) to review and update the assessments of the status of Caribbean spiny lobster at national and regional levels and to

consider the current levels of exploitation and recent trends in the fishery; and (2) to evaluate the nature and severity of current problems in the fishery, including the number of undersized lobster being caught and exported.

The workshop sought regional agreement by senior fishery managers on strategies to address problems and to ensure optimal and sustainable use of the resource. Senior scientists and senior decision makers of the following lobster producing nations participated in the workshop: Antigua and Barbuda, Bahamas, Belize, Brazil, Colombia, Costa Rica, Cuba, Dominican Republic, France on behalf of Guadeloupe and Martinique, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Turks and Caicos, United States, and Venezuela. The senior fishery managers carefully considered and adopted the report of the senior scientists. In keeping with the recommendation to allow about 50 percent of the stock to reach maturity, the national representatives agreed to a minimum harvest size of 74 mm (2.91 inches) cephalothorax length. Nations with minimum size limits greater than 76 mm were encouraged to retain the larger minimum size limits because of the additional conservation and economic benefits they provide. In addition to the minimum size limit, it was agreed that managing fishing mortality also is necessary to achieve sustainable use of the resource. It was further agreed that countries that already have minimum size limits in place should take action to implement and enforce them effectively to reduce the currently high catches of juveniles in order to protect and allow the species to rebuild throughout its range.

More recently, at a Regional workshop on the lobster fisheries in Central America held in Managua, Nicaragua, December 10-11, 2007, sponsored by OSPESCA, the delegates representing Central American fishery management agencies, artisanal fishers, industry, and other institutions developed an 18 point workshop accord, which addressed, among other things, a minimum harvest size for lobster tails of 140 mm (5.5 inches). The accord also recognized industry practices and determined for commercial purposes, each box must have an average tail weight of five ounces with a range of 4.5 to 5.5 ounces. A 5.5 inch tail length and 4.5 oz weight equate to a 3.0 inch carapace length.

2.2 Management History

Gulf of Mexico and South Atlantic

The original Fishery Management Plan (FMP) from the Gulf of Mexico and South Atlantic Fishery Management Councils was written in 1982. It states "The Fishery Conservation and Management Act (FCMA) requires that stocks be managed throughout their range to the extent practicable" and "There may be a relationship between spiny lobster stocks in the Caribbean, South Atlantic and Gulf of Mexico regions" (pg. 7-1). A definition of the fishery is also provided:

> "The spiny lobster fishery consists of the spiny lobster, *Panulirus argus*, and other incidental species of spiny lobster (spotted spiny lobster, *P. guttatus*; smooth tail lobster *P. laevicauda*; Spanish lobster, *Scyllarides aeguinoctialis* and *S. nodifer*), which inhabit or migrate through the coastal waters of and the Fishery

> Conservation Zone (now known as the exclusive economic zone (EEZ)) of the Gulf of Mexico and South Atlantic Fishery Management Council areas and which are pursued by commercial and recreational fishermen" (pg. 12-1).

The original FMP analyzed several different potential minimum sizes, ranging from 2.75 to greater than 3 inches CL. Ultimately, the smaller minimum sizes were not used for biological reasons as they would not protect the spawning stock. The larger sizes were deemed to cost the fishery too much economically and socially, therefore, the 3 inch CL was chosen.

In multiple places within the FMP, the importation of undersized lobster was noted as a concern. Under the description of alternative optimum yields it was noted:

> "The characteristics of demand for lobster indicate preferences for the smaller-sized animals; in fact, market forces would endanger spiny lobster stocks because the greatest preference in the New York wholesale market (Exhibit 9-3) is for animals less than 3.0 inches CL, sizes at which reproduction has not yet occurred. (All of these smaller-sized lobsters are imported)" (pg. 12-4).

Further, under the possible alternatives that were not preferred, a prohibition on the import of undersized spiny lobster is listed. The rationale for not proposing the ban was two-fold. First, there was concern that changes in the import market, which supplies approximately 90% of the lobsters consumed in the United States, could have significant affects on the price-size relationship, though the magnitude of the change on the retail market could not be estimated. Second, the nations harvesting Caribbean spiny lobster were uncomfortable about the impact of import restrictions on international relationships (pg. 12-35).

Since the 1980's the FMP has been amended consistent with new requirements of the Magnuson-Stevens Act, but those amendments have not affected the Caribbean nations regarding the minimum import size for spiny lobster.

Caribbean:
The original FMP for the Caribbean was written in 1981. It acknowledges the need to manage spiny lobster throughout its range and interrelated stocks could be managed as a unit or in close coordination. The plan further acknowledges that "conclusive data regarding genetics between various geographic areas...not available...establishment of an international coalition will eventually be necessary to effectively manage this migratory species throughout its range" (pg. 5). The plan addresses only the species *P. argus* where it is limited to the geological platforms of Puerto Rico and the Virgin Islands essentially inside the 100-fathom isobath. It continues "these shelf areas include not only the Commonwealth of Puerto Rico and the territory of the Virgin Islands, but also the entire chain of the British Virgin Islands. The lobster population recognizes none of these political entities nor the limits of territorial seas" (pg. 6).

The stock unit is defined as:

> "The question of whether or not biologically distinct stocks of *P. argus* may be identified is not resolved. For purposes of this plan three biological assessment areas (distinguished by their user groups and geography) were assumed; (1) Puerto Rico, (2) St. Thomas and St. John, and (3) St. Croix. A single optimum yield isestablished. There is nominally one species and the source(s) of recruitment are not verified" (Section 4.2)".

The original FMP analyzed several different potential minimum sizes, ranging from 2.75 to greater than 3.5 inches CL. As in the GOM and S. Atlantic FMP, the smaller minimum sizes were eliminated because they would not protect the spawning stock. The larger sizes were deemed to cost the fishery too much economically and socially, therefore, the 3.5 inch CL was chosen (see below for rationale for differences in minimum size between the 2 FMPs).

Similar to the GOM and S. Atlantic FMP, the Caribbean FMP mentions the use of an import ban of undersized lobster as a method to improve the stocks status. Under "Recommendations to the Secretary of Commerce" the FMP states:

> "It is recommended that the Secretary of Commerce undertake whatever action may be necessary and appropriate to immediately prohibit the importation into the U.S. Virgin Islands and Puerto Rico of undersized (less than 3.5 inches CL) or berried spiny lobsters and of spiny lobster tails of less than 6 oz. total weight" (Section 5.1).

In addition, under this section, the Secretary of Commerce is asked to adopt an action plan to work with other Caribbean nations to enact conservation and management measures consistent with those adopted by the Caribbean FMC with regard to spiny lobster and other species.

As with the S. Atlantic and GOM FMP, since the 1980's the Caribbean FMP has been amended consistent with new requirements of the Magnuson-Stevens Act, but those amendments have not affected the above definitions or the minimum size regulations of the spiny lobster fishery.

3.0 PURPOSE AND NEED

Foreign and U.S. scientists and fisheries managers all concur the Caribbean spiny lobster is fully exploited or over-exploited* in much of its range (Cochrane and Chakalall 2001). Spiny lobsters are being harvested below the respective Continental and Caribbean U.S. minimum size limits and below the size at first maturity; this is adversely impacting recruitment throughout Florida and the Caribbean because of the distribution and dispersal of larvae during their long larval phase. A reduction of effort on undersized lobster and more comprehensive enforcement would increase spawning stock biomass

* Fully exploited means the act of employing to the greatest possible advantage; over-exploited means exploited to the point of diminishing returns

and increase potential yield. The lobster seafood industry has even recognized this fact and has asked respective governments to address the harvest and exportation of undersized lobster tails to the United States.

This Amendment/EIS will examine various alternatives to restrict imports[†] of spiny lobster into the United States to minimum conservation standards to achieve an increase in the spawning biomass of the spiny lobster stock and increase long-term yields from the fishery.

4.0 MANAGEMENT ALTERNATIVES

The management alternatives section is divided into two actions. The first action will examine various morphometric values that imported spiny lobster would be required to meet. The morphometric values in Action 1 provide an easily measurable requirement that can be used by fishermen, importers, and law enforcement to ensure compliance. The second action examines other import restrictions, which will further protect the spiny lobster stock and close any potential loopholes that may be exploited in an effort to circumvent minimum size restrictions.

4.1 Action 1: Minimum Size Limits for Spiny Lobster (*Panulirus argus*) Imported into the United States[‡]

A. Alternative 1 (No Action Alternative) – Do not establish minimum size limit restrictions on spiny lobster imported into the U.S.

Under the no action alternative, imports would be subject to the management and regulations of the exporting country and violations of those regulations would be pursued through the Lacey Act.

B. Alternative 2 – No person in the U.S. would be allowed to import a spiny lobster (*Panulirus argus*), as follows:

1. Any spiny lobster of less than 5 ounces tail weight (5 ounces is defined as a tail that weighs 4.2 – 5.4 ounces). If the imported product does not meet this minimum weight requirement, the person importing the lobster can demonstrate compliance by showing that the product imported satisfies the

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[†] For the purpose of this amendment/EIS the term "import" (A) means to land on, bring into, or introduce into, or attempt to land on, bring into, or introduce into, any place subject to the jurisdiction of the United States, whether or not such landing, bringing, or introduction constitutes an importation within the meaning of the customs laws of the United States; but
(B) does not include any activity described in subparagraph (A) with respect to fish caught in the U.S. exclusive economic zone by a vessel of the United States" (16 U.S.C. 1802 (22)).

[‡] See Section 14.0 for an explanation of the language used and the history of the evolution of the alternatives in Action 1. Additionally, the SAFMC has identified Alternative 2 for Action 1 and Alternative 2 for Action 2 as their preferred alternatives.

tail length requirement, or that it was harvested from an animal that satisfied the minimum carapace length requirement of:

a. Greater than 3.0 inches (7.62 cm) carapace length if the animal is whole.
b. Greater than or equal to 5.5 inches (13.97 cm) tail length if only the tail is present.

2. *In Puerto Rico and the U.S. Virgin Islands:* Any spiny lobster of less than 6.0 ounces tail weight (6 ounces is defined as a tail that weighs 5.9 – 6.4 ounces). If the imported product does not meet this minimum weight requirement, the person importing the lobster can demonstrate compliance by showing that the product imported satisfies the tail length requirement, or that it was harvested from an animal that satisfied the minimum carapace length requirement of:

a. Greater than or equal to 3.5 inches (8.89 cm) carapace length if the animal is whole.
b. Greater than or equal to 6.2 inches (15.75 cm) tail length if only the tail is present.

C. Alternative 3 – No person would be allowed to import into the U.S., including Puerto Rico and the U.S. Virgin Islands, any spiny lobster (*Panulirus argus*) of less than 5 ounces tail weight (5 ounces is defined as a tail that weighs 4.2 – 5.4 ounces).
If the imported product does not meet this minimum weight requirement, the person importing the lobster can demonstrate compliance by showing that the product imported satisfies the tail length requirement, or that it was harvested from an animal that satisfied the minimum carapace length requirement of:

a. Greater than 3.0 inches (7.62 cm) carapace length if the animal is whole.
b. Greater than or equal to 5.5 inches (13.97 cm) tail length if only the tail is present.

Comparison of Action 1 Alternatives

Fisheries for spiny lobster (*Panulirus argus*) exist throughout its range in the Caribbean and tropical western Atlantic. The Western Central Atlantic Fishery Commission (WECAFC) held workshops in 2000 and 2002 regarding the management of the spiny lobster fisheries in the WECAFC region and the scientific committee from that workshop concluded that spiny lobster are fully exploited to over-exploited throughout its entire range. [NOTE: WECAFC is part of the Food and Agriculture Organization (FAO) and was established pursuant to FAO's Constitution. It is advisory only and has no regulatory powers, unlike other Regional Fisheries Management Organizations such as the International Commission for the Conservation of Atlantic Tunas (ICCAT).]

Several genetic studies have been conducted on spiny lobster in the Caribbean since the 1990's. The consensus from these experiments is that the spiny lobster population appears to be interconnected throughout the Caribbean with the possibility of a semi-

isolated subpopulation in part of Brazil. Despite the somewhat limited information regarding the Caribbean as a whole, based on scientific studies, the U.S. population is very likely dependent on recruitment from other areas (Lyons et al1981, Acosta et. al. 1997).

The alternatives in Action 1, other than the status quo, are intended to eliminate the largest market for undersize spiny lobster (the U.S.) and provide an incentive for foreign nations that do not have minimum conservation standards to implement conservation standards which will improve the status of the spiny lobster stock in the U.S. and throughout the Caribbean. The most effective means for creating this incentive is to improve law enforcement (LE) capabilities for preventing undersized lobster from being imported to the United States. By implementing an import restriction on size, LE will be more capable of tracking undersized lobster shipments and developing cases against suspected importers of undersized lobster. Under existing laws (most notably the Lacey Act), LE must develop an extensive record and work in coordination with foreign nations when attempting to develop a case against an importer. This is often a very complicated and difficult process to coordinate. By changing the domestic laws to place conservation standards on imported lobster, this amendment/EIS will help protect lobster stocks, as well as provide a better tool for LE officials to deter the importation of undersized lobster.

Due to the complexity of the spiny lobster industry and the high volume of international trade, the alternatives provide a number of means for determining whether an individual lobster is indeed undersized. **Alternatives 2** and **3** are structured the same, but alter the minimum size depending on the location of importation (i.e., into the U.S. or the U.S. Caribbean). Table 4.1.1 lists each alternative and the associated minimum possession limits for the alternative. The multiple minimum size morphometrics (i.e., carapace length, tail length, and tail weight) provided in each alternative are intended to provide an understandable and practical size restriction for each component of the industry. For example, the use of carapace length (CL) is currently what fishermen, while at sea, use to verify if an individual lobster is indeed legal. Tail length (TL) is used by some fishermen while at sea; for example, Gulf of Mexico and South Atlantic fishermen in the EEZ who possess a tailing permit. The tail weight (TW) is used by processors, importers, and exporters. Law enforcement agents would use CL and TL for inspections at sea and dockside as is the current practice, while TW would be used in examining imports if either **Alternative 2** or **Alternative 3** were chosen.

Importers would be required to meet the minimum weight conservation standard identified in the alternatives. However, if the imported product does not meet the minimum weight requirement, the person importing the lobster can demonstrate compliance by showing that the product imported satisfies the equivalent tail length requirement, or that it was harvested from an animal that satisfied the equivalent minimum carapace length requirement.

Table 4.1.1. Alternatives with respective morphometric requirements for spiny lobster importation.

Alternative	Carapace Length	Tail Length	Tail Weight/ Industry Allowances
1	N/A	N/A	N/A
2	> 3.0 inches U.S.; ≥ 3.5 inches in the Caribbean	≥ 5.5 inches U.S.; ≥ 6.2 inches Caribbean	≥ 4.2 oz U.S.; ≥ 5.9 oz Caribbean/ U.S - 5 oz weights = 4.2 - 5.4 oz; Caribbean - 6 oz weights = 5.9 - 6.4 oz.
3	> 3.0 inches	≥ 5.5 inches	≥ 4.2 oz/ 5 oz weights = 4.2 - 5.4 oz

The intent of this amendment is to utilize the tail weight in deterring under-sized lobster imports as that is the unit of measure the industry utilizes as it markets, imports, stores, transports, and sells this product. Spiny lobster is rarely, if ever, imported or marketed in the U.S. as a whole animal, but instead as frozen tails. Standard industry practice for overseas spiny lobster processing is to separate, sort, and box the tails by their tail weight prior to shipping. In addition, U.S. Customs' entry documents and the seafood industry's sales, storage and bills of lading documents typically include the tail weights (in ounces), making this measurement an effective enforcement tool to track undersized lobster, even after it enters the U.S. port. It is estimated over 99% of spiny lobster product enters the U.S. in this fashion (P. Raymond, NOAA OLE, pers. comm.).

Additionally, there was a December 2007 workshop with delegates from Central American fishery management agencies, artisanal fishers, and industry held in Managua, Nicaragua (OSPESCA). The delegates developed an 18 point workshop accord which contained recommendations for minimum conservation standards including a minimum harvest size for tails of 140 mm and a minimum tail weight of 4.5 ounces. For the commercial industry, this translates into each shipping box having an average tail weight of 5 ounces with a range from 4.5 to 5.5 ounces.

However, the 4.5 ounce tail weight recommendation was not based on scientific conversions from the recommended 140 mm tail length, but was instead based on industry practice of sorting and shipping. Tables 4.1.2 and 4.1.3 provide conversions from carapace length to tail length and tail weight based on Matthews et al. (2003). If we examine the 140 mm (5.5 inch) tail length recommendation, we see it is derived from one standard deviation of the mean for a 3.0 inch (76.2 cm) carapace length animal (table 4.1.3, in green). Therefore, if a tail length recommendation is based on one set of scientific standards, all conversions from the carapace length should be based on that same standard. Therefore, the appropriate tail weight to be used for a 3.0 inch carapace length animal would be a 4.15 ounce tail weight (Table 4.1.3, in yellow). This, like the tail length recommendation is based on one standard deviation from the mean for the measurements of a 3.0 inch carapace length animal. For the purpose of simplifying this requirement, the weight has been rounded to one decimal place to make the requirement a

4.2 ounce tail weight. For imports to the U.S. Caribbean, similar conversions from a 3.5 inch CL animal yield a minimum TW of 5.9 ounces and a TL of 6.2 inches (Table 4.1.3, in turquoise).

Therefore, in an effort to accommodate industry practices this amendment defines the 5 ounce tail as ranging from 4.2 to 5.4 ounces and a 6 ounce tail as ranging from 5.9 to 6.4 ounces. This allows industry to maintain their sorting and packaging practices while instituting the minimum tail weight conservation standard based on scientific conversions.

The use of this scientific standard has already been applied in the current regulations for the Gulf and South Atlantic joint FMP for spiny lobster. The Gulf and South Atlantic FMP allows lobsters to be tailed while at sea if the vessel has the appropriate tailing permit. The minimum size for tails to be legal is 5.5 inches, which is derived from one standard deviation of tail length for a 3.0 inch carapace length animal (Table 4.1.3 in yellow). Using the one standard deviation approach, it is expected that 84.13% of all 3.0 inch carapace length animals would be legal based on their tail length and tail weight measurements at 5.5 inches and 4.2 ounces, respectively.

Table 4.1.2. CL and average TL and TW conversions (metric and English conversions; Matthews, pers. Comm.)

Carapace length (mm)	Tail weight (g)	Tail length (mm)		Carapace length (in)	Tail weight (oz)	Tail length (in)
76.2	122.8	142.5		3.00	4.34	5.61
82.6	153.5	153.4		3.25	5.42	6.04
88.9	188.0	164.2		3.50	6.64	6.46

Table 4.1.3. CL measurements with converted TL and TW for animals minus 1 SD (metric and English conversions; Matthews, pers. Comm.)

Carapace length (mm)	Tail weight (g)	Tail length (mm)		Carapace length (in)	Tail weight (oz)	Tail length (in)
76.2	117.6	139.9		3.00	4.15	5.51
82.6	143.2	149.6		3.25	5.06	5.89
88.9	168.3	158.4		3.50	5.94	6.24

Alternative 1 would not establish restrictions on spiny lobster imports. **Alternative 2** would require all imported lobster to have a TW of 4.2 ounces or greater if imported to the U.S.; for those lobsters imported to the U.S. Caribbean, a lobster must have a TW of 5.9 ounces or greater. Because weighing tails at sea is difficult, fishermen would continue to use the CL and TL measurements as appropriate for their region or country to ensure compliance with the legal requirements. Law enforcement officials would have the ability to use those same measurements for at sea and dockside enforcement while utilizing the appropriate TW measurement for enforcement of imported lobster tails. Due to the scientific variation of lobster tail weight, an importer may demonstrate compliance with the minimum conservation standards by providing documentation that an animal that does not meet the TW requirement meets the TL or CL measurement.

Alternative 3 would require all imported lobster to have a TW of 4.2 ounces or greater regardless of the port of entry into the U.S. This alternative would function similarly to **Alternative 2** with fishermen using the CL and TL measurements and LE utilizing those measurements plus the TW. However, there is some concern in the U.S. Caribbean that there may be a loss of the conservation standards with the use of this single size approach. The U.S. Caribbean has a more restrictive conservation standard on spiny lobster (i.e., a minimum landing size of 3.5 inches) than does the continental U.S. The loss in conservation would be seen through the creation of a loophole where products may be claimed as imports even if they are not in an effort to circumvent local laws. Similarly, law enforcement may loose some of its ability in enforcing local laws because of the allowance of smaller lobster through the import market. In weighing these differences between **Alternative 2** and **Alternative 3**, it appears that requiring imports to meet the minimum conservation standards of the domestic port of entry would provide more benefits than one standard set of standards. Therefore, **Alternative 2** would be more beneficial than **Alternative 1** or **Alternative 3**.

4.2 Action 2: Implement Other Import Restrictions on Spiny Lobster

A. Alternative 1 (No Action Alternative) – Do not have other restrictions on the importation of spiny lobster.

   Under the no action alternative for Action 2, imports would be subject to the management and regulations of the exporting country and violations of those regulations would be pursued through the Lacey Act.

B. Alternative 2 - Do not allow the importation of spiny lobster tail meat which is not in whole tail form with the exoskeleton attached; and do not allow the importation of spiny lobster with eggs attached or importation of spiny lobster where the eggs, swimmerets, or pleopods have been removed or stripped.

C. Alternative 3 - Do not allow the importation of spiny lobster tail meat which is not in whole tail form with the exoskeleton attached

D. Alternative 4 - Do not allow the importation of spiny lobster with eggs attached or importation of spiny lobster where the eggs, swimmerets, or pleopods have been removed or stripped.

Comparison of Action 2 Alternatives

If no protections are afforded to the females as they are actively reproducing, then all benefits from increasing the spawning stock biomass have been lost.
The alternatives considered in Action 2, other than the no action alternative, are designed to: 1) provide further protections to undersized lobsters, and 2) protect berried (egg-bearing) females. Both of these actions will aid in accomplishing the purpose of this amendment/EIS, to increase the spawning stock biomass of the spiny lobster population.

Appendix A of this document provides copies of documents obtained from LE officials used in their investigations of undersize spiny lobster imports. Of particular interest to this action is the document on page 2 of the appendix dated 8/16/2000. In this document the seller inquires whether a buyer is interested in "approx 800-900 lbs of lobster meat." This inquiry is made one day after the seller informs the buyer of a "lot of pressure on tails under 5 oz." (page 1 Appendix A). Likely, there was intent to circumvent the laws regarding minimum sizes for any country and to continue bringing in illegal product regardless of how that was achieved. If any importation conservation standards are to have the desired effect, then the trade in "lobster meat" must be stopped to close the potential loophole of harvesting undersize lobster, processing it into meat, and then making it available in the market.

The protection of berried females (or those that were, prior to being stripped) is also imperative if the minimum conservation sizes are implemented in order to protect the spawning stock biomass. Action 1 will help achieve an increase in the spawning stock biomass of spiny lobsters; if no protections are afforded to the females as they are actively reproducing, then all benefits from increasing the spawning stock biomass have been lost. Therefore, the alternatives in Action 2 are supportive of those in Action 1 and will further the conservation of the spiny lobster population.

Alternative 1, No Action, would not implement any further conservation standards for imported lobster. **Alternative 2** would prohibit the importation of lobster tail meat and of berried females or any spiny lobster where it is apparent the eggs have been removed by any means. For the purposes of this action, lobster tail meat means that meat which is not in whole tail form with the exoskeleton attached or still part of a whole lobster. If this alternative is not selected, significant loopholes would exist to avoid compliance with the minimum size limit. **Alternative 2** also prohibits importation of berried females or those females who have been obviously stripped of their eggs by removing the eggs, clipping the swimmerets, or removing the pleopods. Individual animals that have been stripped of their eggs or who have had their swimmerets or pleopods removed are easily identified by law enforcement officials once the tail is thawed and the underbelly inspected (P. Raymond, NOAA OLE, pers. comm.). Thus, a restriction on their importation would further the goal of this amendment/EIS in increasing the spawning stock biomass of the spiny lobster population.

Alternatives 3 and **4** would achieve similar goals as **Alternative 2**, but not to the same extent. These two alternatives are obviously derivatives of **Alternative 2** and would implement only one or the other restriction of prohibiting lobster tail meat or berried females. While both are viable alternatives for achieving an increase in the spawning stock biomass of spiny lobster, **Alternative 3** and **4** are not as comprehensive as **Alternative 2.**

Alternative 1 would maintain the regulations that exist under the Caribbean FMP and the South Atlantic/Gulf of Mexico FMP. **Alternative 2** would require all imported lobster to comply with domestically equivalent regulations such that no berried lobsters, or stripped

(clipped) lobsters or lobster meat would be allowed for importation into the U.S. **Alternative 3** and **4** are some derivation of **Alternative 2**, but not as comprehensive. Therefore, **Alternative 2** would be more beneficial than **Alternatives 3** and **4**, and all would be more beneficial than **Alternative 1** in increasing the spawning stock biomass and protecting the spiny lobster resource.

4.3 Preferred Alternatives

This DEIS does not presently reflect a preferred alternative for either proposed action. The GMFMC and CFMC were encouraged not to select preferred alternatives while staff worked with a number of federal agencies that specialize in trade issues to ensure the actions could be completed in a manner that was desired by the Councils. The SAFMC, however, has already selected preferred alternatives for the two actions (Alternative 2 for Action 1 and Alternative 2 for Action2). The other two councils will consider the alternatives for both actions at their respective meetings to be held later this summer and are expected to indicate their preferred alternatives at that time. The final EIS for this action will reflect an agency preferred alternative based on the results of these council deliberations.

4.4 Alternatives Considered but Rejected

During the development of this Amendment /EIS no alternatives were considered and then rejected. However, there were modifications to the alternatives as various iterations of the Amendment/EIS were developed.

Action 1 Modifications

Action 1 has maintained various morphometric size limit restrictions for imports throughout the development of the document. There were changes in the exact measurements of these limits based on insight provided by spiny lobster biologists and the peer-reviewed literature of spiny lobster. Specifically, the changes occurred to the minimum weight limit required for lobsters and the language used to delineate the 2 different sets of morphometrics used in the alternatives.

The minimum weight limit has been identified in various iterations as 4.15, 4.5, and the current 4.2 ounces. Using the Matthews et al (2003) paper, the direct derivative for tail weight from a 3 inch carapace length animal rounded to 2 decimal places is 4.15 ounces, hence that measurements use in the original document. However, industry practice is to sort tails based on whole ounce categories plus or minus 0.5 ounces. Therefore, it was deemed most appropriate to use a minimum tail weight of 4.5 ounces based on the 4.15 ounce conversion for industry's ease. It was later determined that it would be more appropriate to use the direct conversion based on best available science, while rounding to a single decimal place, hence the current 4.2 ounce minimum weight.

The other change in Action 1 was in regards to the language used to identify the 2 differing sets of morphometrics to be used for spiny lobster imports. The Caribbean FMC has a different minimum carapace length requirement for the spiny lobster fishery of Puerto Rico and the USVI (3.5"). There was very strong opinion in the US Caribbean that any import should meet those same requirements in the U.S. Caribbean. Therefore, a different set of morphometric minimum size limits were developed based on the 3.5 inch carapace length.

In an effort to delineate what size limit an imported lobster would be required to meet, language was developed to include the U.S. Caribbean (Puerto Rico and the USVI) and the continental U.S. A number of issues were identified in using the wording of "Continental U.S." as this created a loophole for importers to trans-ship spiny lobster products through Hawaii, Alaska, and other U.S. territories, thereby bypassing the minimum import requirements. Therefore, the language now used in the alternatives includes **all of the U.S. except Puerto Rico and the USVI** where the minimum import sizes are based on the 3.5 inch carapace length.

5.0 AFFECTED ENVIRONMENT

5.1 Physical Environment

The Caribbean Sea is an interior sea formed by a series of basins lying to the east of Central America and separated form the North American Basin of the Atlantic by an island arc 2,500 nautical miles long which joins the Florida Peninsula to the north coast of Venezuela. This arc is demarcated by the Greater Antilles (Cuba, Jamaica, Hispaniola, and Puerto Rico) and the Lesser Antilles (the Virgin Islands, Guadeloupe, Martinique, St. Lucie, Barbados, and Trinidad).

Contained between the 10^{th} and 30^{th} degrees of north latitude, this interior sea has an elliptical form. The long northwest-southeast axis is 2,200 nautical miles and the short axis is 900 nautical miles. The total area of the Caribbean Basin is 4,320,000 km^2, divided into two unequal parts: 1) the Gulf of Mexico (1,700,000 km^2) and 2) the Caribbean Sea (2,600,000 km^2); separated by the Yucatan Peninsula and Cuba between which flows the Yucatan Channel (60 nautical miles wide and 2000 m deep).

The Gulf of Mexico is a simple depression including an extended peripheral continental shelf representing more than one-third of the surface area of the Gulf, and a central basin whose maximum depth is 3800 m. The continental shelf is rich in oil-bearing strata. The Gulf of Mexico opens on the North American Basin by the single opening of the Straits of Florida, between the tip of Florida, the north coast of Cuba, and the Bahamas Archipelago. The width of the channel is 30-50 nautical miles and its greatest depth is 800 m.

As a seismic and volcanic region, the Caribbean has a much more complex topography and has numerous openings into the North American Basin. The Jamaican Ridge,

running from Cape Gracias a Dios to Jamaica and Hispaniola, divides the Caribbean into two sections-one in the northwest, the other southeast, communicating across a 1500 m sill which is 20 nautical miles wide at 100m. The northwest basin is itself divided in two by the Cayman Ridge, which from the southwest point of Cuba runs toward, without reaching it, the Gulf of Honduras. Between the Gulf of Mexico and the Cayman Ridge lies the Yucatan Basin, of which the central part is 4700 m deep. At its western extremity it communicates freely at depth of more than 5000 m with the second basin, the Cayman Basin. In the eastern part of the Cayman Basin, between the southwest point of Cuba and against the Cayman Ridge lies a narrow trench 7680 m deep.

The southeast basin, more extensive than the northwest, is in turn subdivided into three by two ridges (Beata and the Aves), having a mostly north-south orientation, parallel to the general direction of the Lesser Antilles. Between the Jamaica and Beata Ridges lies the Colombian Basin, more than 4000 m deep. Between the Beata and Aves Ridges is the Venezuelan Basin which has depths between 4000 and 5000 m; and the Grenada Basin, with a depth of more than 3000 m, is held between the Aves Ridge and the chain of the Lesser Antilles. Because the Beata Ridge does not reach the north coast of Colombia, the Colombian and Venezuelan Basins exchange freely at depths of 1600 m. The main exchanges between the Caribbean and the North American Basin are: 1) the Windward Passage between the southeast of Cuba and the northwest part of Haiti, with a depth of 1650 m and a width of 12 nautical miles; and 2) the Anegada Passage, prolonged by the Virgin Islands Passage, with a depth of 1800 m and a length of 8 nautical miles, enabling the Atlantic to communicate with the Venezuelan Basin.

The channels between the islands of the Lesser Antilles are all of the order of a depth of 1000 m. Outside of the Greater Antilles chain, to the north of Puerto Rico and Hispaniola, lies the Puerto Rico trough, which has a maximum depth of 8648 m. This maximum depth is found no more than 200 km from a peak in Hispaniola, which reaches 3175 m for a relief of about 11,823 m in less than 200 km.

The Caribbean Basin is entirely in the tropical Atlantic. The mean annual temperature is near 25° C and seasonal variations are small. The winds, the eastern sector predominating, are tied to the trade wind system of the Northern Hemisphere. In the Gulf of Mexico in winter there is a rather marked northern component. Precipitation is 500 mm annually in the east and southeast Caribbean, 500-1000 mm annually over the Gulf of Mexico, and 2000 mm annually in the southwest part of the Caribbean (Tchernia 1980).

5.2 Biological Environment

5.2.1 Spiny Lobster (*Panulirus* argus)

The Caribbean spiny lobster (*P. argus*) populates the western Artlantic Ocean, Caribbean Sea, and Gulf of Mexico ranging from Bermuda down to Brazil (Hernkind 1980; Figure 5.2.1). Distribution and dispersal of *P. argus* is determined by the long planktonic larval phase, called the puerulus, during which time the infant lobsters are carried by the currents until they become large enough to settle to the bottom (Davis and Dodrill 1989).

As the lobsters begin metamorphosis from puerulus to the juvenile form, the ability to swim increases and they move into shallow, near shore environments to grow and develop.

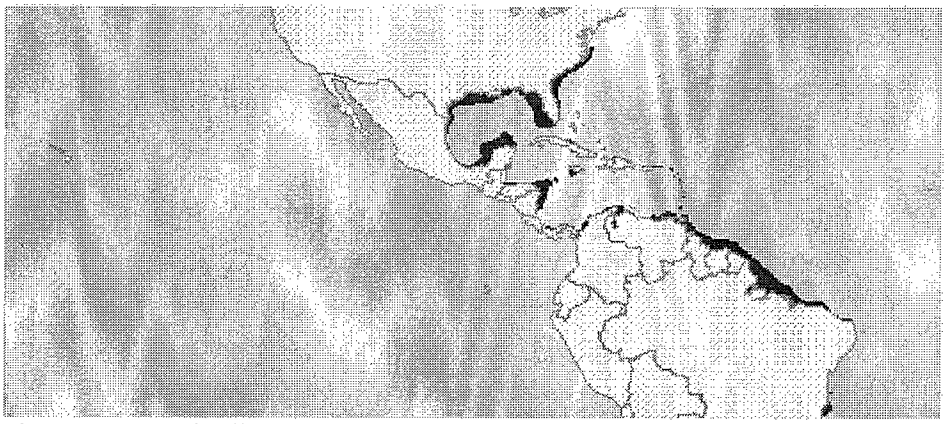


Figure 5.2.1. Distribution of spiny lobster (*P. argus*)

Young benthic stages of *P. argus* will typically inhabit branched clumps of red algae (*Laurencia sp.*), mangrove roots, seagrass banks, or sponges where they feed on invertebrates found within the microhabitat. In contrast to the social behavior of their older counterparts, the juvenile lobsters are solitary and exhibit aggressive behavior to ensure they remain solitary. The inhabitation of macroalgae by the juvenile lobsters provides protection to the vulnerable individuals from predators while providing easy access to food sources (Marx and Hernkind 1985).

Individuals two to four years old exhibit nomadic behavior emigrating out of the shallows and moving to deeper, offshore reef environments. Once in the adult phase, Caribbean spiny lobsters are thigmotactic and tend to enter social living arrangements aggregating in enclosed dens. Shelter environments may include natural holes in a reef, rocky outcrops, or artificially created environments (Lipcius and Cobb 1994).

As adults in the offshore environment, Caribbean spiny lobsters support commercial, recreational, and artisanal fisheries throughout their geographic range (Davis and Dodrill 1989). Given the wide distribution of *Panulirus argus* from Bermuda down to Brazil, it is hard to determine a definitive stock structure for this species. There are a multitude of currents and other factors that influence the movement of water throughout the range of *P. argus*. The long duration that lobsters spend in the larval stage, traveling by the currents severely impairs the ability of scientists to determine a stock structure. More recent work with DNA may be useful in determining some sort of stock structure for the Caribbean spiny lobster (Lipcius and Cobb, 1994), however the extensive larval phase may also limit this tool as it takes few successful migrants to homogenize the gene pool (Silberman and Walsh 1994). Studies have also shown that the presence of local gyres or loop currents in certain locations could influence the retention of locally spawned larvae. In addition, benthic structures such as coral reef may disturb the flow of water and lead to the settlement of larvae in a particular location (Lee, et. al. 1994).

The general anatomy of *Panulirus argus* conforms to the typical decapod body plan consisting of five cephalic and eight thoracic segments fused together to form the cephalothorax. The carapace, a hard shield- like structure, protects this portion of the body and is often the part of the lobster measured and used as a standard to determine organism length. All the segments bear paired appendages that serve in locomotion, sensory, or both (Phillips, Cobb and George, 1980). From the head of the lobster, the appendages are ordered starting with the first antennae, second antennae, mandibles, first maxillae, and second maxillae. There are five pairs of walking legs called pereiopods and a six-segmented tail. The antennae function primarily to obtain sensory information by chemoreception, as do the dactyls of the walking legs and the mouthparts involved in handling food. Lobsters have great visual ability, achieved through the use of their paired, lateral compound eyes. In addition, highly distributed superficial hairs detect water movements (Ache and Macmillan, 1980).

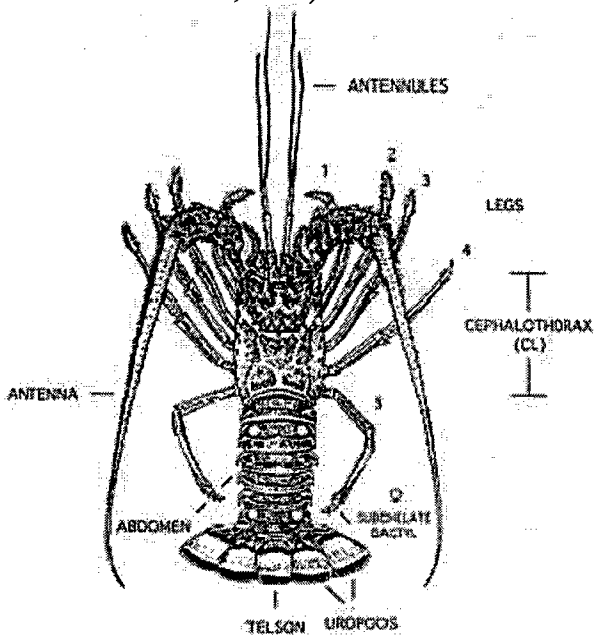


Figure 5.2.2: Morphology of *Panulirus argus* (Lipcius and Cobb, 1994).

Gills are the main organs used by lobsters for respiration. The rate of oxygen consumption in *P. argus* is dependent upon the temperature, the degree of crowding within the den, feeding and size of the lobster; oxygen consumption is not determined by the concentration of the oxygen in the water as some studies show that oxygen uptake remained the same in both hypoxic and aerated water (Phillips, Cobb and George, 1980).

Food Habits

Once *P. argus* settles out from the planktonic phase and enters the seagrass and macroalgae nursery habitat, their diet consists of small gastropod mollusks, isopods, amphipods and ostracods, most of which can be found in or within close proximity to the lobster's algal shelter. Studies suggest that as the abundance of food declines in and

around their algae habitat, lobsters forage more frequently and thus have more frequent contact with conspecifics. Aggressive behavior in the juvenile lobsters, which at this time live solitarily, has been observed as a means of enforcing territoriality. The consequence of increased aggressive interactions as well as a declining food source is thought to induce the nomadic emigration from the algal nursery environment to off shore reef environments (Marx and Herrnkind, 1985).

During the adult and juvenile phases, the Caribbean spiny lobster will rest in shelters during daylight hours and emerge in the evening to forage for food. Adult lobsters are key predators in many benthic habitats with their diets consisting of slow-moving or stationary bottom-dwelling invertebrates including sea urchins, mussels, gastropods, clams and snails (Lipcius and Cobb, 1994). Juvenile lobsters also forage at night and will eat a similar diet of invertebrates, only smaller individual prey. During feeding, prey organisms are seized and maneuvered using the anterior periopods or maxillipeds, while the mandibles carry out mechanical digestion and are capable of crushing hard mollusk shell (Herrnkind, et. al. 1975). Little is known about the dietary requirements of the larval phase, plankton sized lobsters.

Larger animals such as sharks and finfish frequently prey upon adult Caribbean spiny lobsters. Studies indicate that Caribbean spiny lobsters are highly selective of the dens they choose to live in and the location of these crevices. Their evening movements away from and subsequent return to their dens illustrates the spatial orientation they have to their immediate habitats (Herrnkind, 1980).

Reproduction

Reproduction in the Caribbean spiny lobster occurs almost exclusively in the deep reef environment once mature individuals have made the permanent transition from the shallow seagrass nursery to the ocean coral reef system. Spawning season is in the spring and summer, however autumnal reproduction has been known to occur in some situations (Kanciruk and Herrnkind, 1976). The gestation period for eggs is about a month. Eggs are orange when they are fresh and brown when they are close to hatching. Studies have found that the initiation of spawning is related to water temperature with an optimal water temperature for mating of 24 degrees centigrade (Lyons, et. al., 1981).

Reproductive fecundity is dependent upon the size of the individual as well as the geographic area in which the lobster lives. Reproductive efficiency for a given size in a given area can be determined using the relationship between fecundity and carapace length. A study conducted in South Florida found that differences exist between the fecundity/carapace length relationships of individuals living in the Dry Tortugas from individuals living in the Upper and Middle Florida Keys. Based on data provided from each location, an Index of Reproductive Potential was calculated using the model developed by Kanciruk and Herrnkind (1976):

$$\text{Index} = (A \times B \times C)/D$$

Where:

A = number of females in size class/total females
B = propensity of size class to carry eggs
C = egg carrying capacity of size class female
D = constant (31.27) – present to set the 76-80 mm size class index to 100 as the standard.

Choice of mate is determined by the female as well as inter-male aggression, where larger males will prevent a smaller male from courting a female (Lipcius and Cobb1994). Females mate only once during a season, while males can fertilize multiple females. During mating, the male will flick his antennules over the anterior of the female and scrape at her with the third walking legs. The male follows the female around continually trying to lift the female up and embrace her. This pattern continues until the female acquiesces and they each stand on their walking legs while the male deposits the spermatophore mass on the female sternum (Atema and Cobb, 1980). Females bearing eggs will usually live in solitary dens and infrequently forage for food (Lyons, et. al., 1981). Large adult females will produce more broods, as well as spawn eggs earlier in the reproductive period than younger females since younger individuals molt earlier in the reproductive period.

Growth and Molting

The life cycle of the Caribbean spiny lobster provides larvae with the potential to travel long distances for periods ranging from a few months to almost two years. During this time, the larval lobsters remain near the surface of the water. Maximum potential dispersal distances differ from one region to another and are primarily dependent on the currents in the area. A gyre in an area where lobster eggs have hatched may keep the larva in the same geographic area, however most of the time the larva are transported out of the area, sometimes hundreds of miles (Lee, et. al. 1994). Once the planktonic lobsters reach about 35 mm they are large enough to settle down as post larval pueruli in shallow benthic environments to grow. Growth in juveniles is rapid with most reaching a carapace length of 60-70 mm within about two years (Hernkind, 1980). Once the lobsters reach about 70 mm and begin to sexually mature, the young *P. argus* emigrate from the nursery to deeper offshore reef environments.

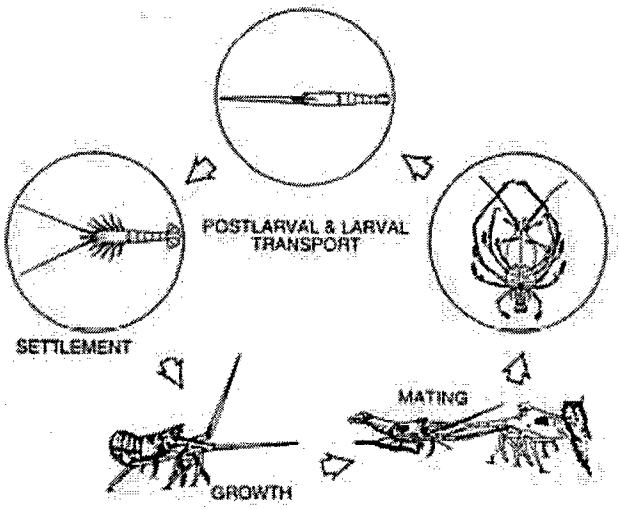


Figure 5.2.3: The Life Cycle of *Panulirus argus* (Lipcius and Cobb, 1994).

Physical growth of lobsters is achieved through molting. A thorough understanding of the molt cycle of the Caribbean spiny lobster is an important component to the management of this fishery because the catchability and captive behavior of crustaceans is directly related to the animal's proximity to molting. The molt cycle begins with the intermolt period, the time when a new cuticle is being created, tissue growth is rapid and the lobster actively forages. This period of time culminates in ecdysis, which is shedding the old cuticle or molting (Lipcius and Hernkind, 1982).

Molting occurs primarily at night. Possible reasons for nocturnal ecdysis include decreasing the risk of cannibalism by other members of this gregarious species, and decreasing diurnal predation risks. The first action to occur during molting is the rupture of the thoracoabdominal membrane followed by a rising of the dorsal part of the cephalothorax; this action frees the eyes, bases of antennae and antennules. A series of peristaltic contractions causes the removal of the abdomen from the old cuticle, while writhing motions free the cephalothorax and attached structures. A few final wriggles and contractions terminating in a tail flip completely segregates the lobster from its old cuticle. Once molted, the lobster seeks immediate shelter, as they are especially vulnerable until their new cuticle becomes hardened (Lipcius and Hernkind, 1982). For adult lobsters, molts average about two and a half times each year. The entire molting event takes approximately ten minutes. The new exoskeleton will take about 12 days from the start of the molt to harden such that it cannot be dented; however the shell is not completely formed until the 28th day (Williams, 1984).

Studies found that feeding rates significantly increase in the time preceding a molt to accommodate the increasing metabolic needs associated with new cuticle formation. About a week before ecdysis, daily food intake for the Caribbean spiny lobster decreases rapidly, in correlation with a reduction in demanding activities such as locomotion and foraging. In the few days before and the time during ecdysis, feeding ceases altogether and the lobster becomes socially reclusive. Within a week of the molting event, *P. argus*

will display maximal feeding, foraging and locomotor activity rates to accommodate for the active tissue growth that occurs (Lipcius and Hernkind, 1982). The dramatic swings in feeding and foraging behavior associated with the molting cycle influences the success of fishermen when capturing this species. The highest catchability of spiny lobster is expected immediately following molting because lobsters are actively foraging at this time and are therefore more likely to accept bait. Conversely, the lowest catachability of spiny lobster is expected before molting when foraging decreases and the lobster becomes less mobile (Lipcius and Hernkind, 1982).

Growth and Mortality Rates

Despite the wide body of literature on this species, limited information is available on the growth and aging of the Caribbean spiny lobster due in part to the molting habits of lobsters interfering with tagging efforts. Consequently, length data, which is substantially easier and less costly to collect, has been the dominant source of information used to estimate growth in *P. argus.* The limited quantitative information that exists on growth for this species at various locations has been compiled in a doctoral thesis by Jaime Manuel Gonzalez-Cano (1991) and was graphed below using the von Bertalanffy growth model.

$$L = Linf\,[1-e(-k(t-to))]$$

Where:
L = length of the organism at time t
Linf = asymptotic average length achieved
K = growth rate with units 1/time
T_o = time when the length of the organism would be zero

As with any fished population, especially one with poor aging information, natural mortality rates for Caribbean spiny lobster populations have been difficult to isolate from fished rates of mortality.

Locomotion and Migration

The Caribbean spiny lobster achieves locomotion by using the five pairs of walking legs attached to the cephalothorax and can swim (backward) for brief periods using its tail for propulsion (Lipcius and Cobb, 1994). Patterns of movement in *Panulirus argus* fall into the following categories: homing, nomadism and migration. Throughout most of their life, *P. argus* is a shelter dweller during the day and forages at night. Evening movements within the home range are directed; lobsters are apparently aware of their location at all times and can find the way back to the den of origin even if detours are caused by predators or divers. Nomadism is the movement that occurs in juvenile lobsters away from the nursery habitat and to the offshore reefs. Migration is the direct movement of an entire population or sub-population over a long distance for a given period of time (Herrnkind, 1980).

Mass movements (2-60 individuals) of Caribbean spiny lobsters occur annually throughout the geographic range of the species and are dependent on latitude and climactic factors. Observed locations for the migration include Bermuda in October, the Bahamas and Florida in late October and early November, and the Yucatan and Belize in December (Herrnkind 1985). This mass migratory behavior is thought to have evolved in response to deteriorating conditions that resulted from the periods of glaciations that occurred over the past several 100,000 years. Thus, the migration and queuing behavior became specialized by the natural selection on individuals of the harsh winters during periods of glaciations. Gonads during the migration in the fall are inactive, as they don't begin to mature until the late winter (Herrnkind 1985).

The first autumn storm in the tropics usually brings a severe drop in water temperature of about five degrees centigrade, as well as high northerly winds of up to 40 km/h and large sea swells. The shallow regions that the lobsters exploit during the summer months become turbid and cold, initiating the diurnal migration of thousands of lobsters to evade these conditions. The Caribbean spiny lobster is highly susceptible to severe winter cooling and will exhibit reduced feeding and locomotion at temperatures 12-14 degrees centigrade; molting individuals usually perish under these conditions. According to Herrnkind (1985), the behavioral changes observed in *P. argus* as well as the known biological information about the species lends credence to the idea that individuals migrate to evade the stresses of the cold and turbidity in the winter.

Caribbean spiny lobster initiate the migratory behavior by queuing, the single file formation of migrating individuals initiated by visual or tactile stimuli. Queuing is maintained by establishing contact between the antennules of one individual and anterior walking legs of another. Biologically, the queuing behavior is an important hydrodynamic drag reduction technique for the migration of individuals over long distances (Bill and Herrnkind, 1976). Studies done by tagging individuals found that during the migration, individuals tended to move distances of 30-50 km (Herrnkind 1985).

Migratory movement lasts for variable periods of time and is believed to be dependent on the total number of migratory lobsters. One study in the Bahamas in 1971 found the migration to take six hours while another study in the same location in 1969 found the migration to take five days. It is thought that the more lobsters present, the longer the migration will last in order to avoid over crowding of shelters at their final destination (Kanciruk and Herrnkind, 1978). Once individuals reach sheltered habitats located in deeper water, such as a deep reef site, the migratory queuing behavior ends and the lobsters disperse.

5.2.2 Protected Species

There are 32 different species of marine mammals that may occur in the EEZ of the Gulf of Mexico, South Atlantic, and Caribbean. All 32 species are protected under the MMPA and six are also listed as endangered under the ESA (i.e., sperm, sei, fin, blue, humpback

and North Atlantic right whales). There are no known interactions between spiny lobster fisheries and marine mammals. Other species protected under the ESA occurring in the Gulf of Mexico, South Atlantic, and Caribbean include five species of sea turtle (green, hawksbill, Kemp's ridley, leatherback, and loggerhead); the smalltooth sawfish, and two *Acropora* coral species (elkhorn [*Acropora palmata*] and staghorn [*A. cervicornis*]). A discussion of these species is below. Designated critical habitat for the North Atlantic right whale also occurs within the South Atlantic region. Critical habitat has been designated for green, hawksbill, and leatherback sea turtles in the Caribbean region, however, 99% or more of these areas are contained within state waters.

5.2.2.1 ESA-Listed Sea Turtles

Green, hawksbill, Kemp's ridley, leatherback, and loggerhead sea turtles are all highly migratory and travel widely throughout the South Atlantic. The following sections are a brief overview of the general life history characteristics of the sea turtles found in the South Atlantic region. Several volumes exist that cover more thoroughly the biology and ecology of these species (i.e., Lutz and Musick (eds.) 1997, Lutz et al. (eds.) 2002).

Green sea turtle hatchlings are thought to occupy pelagic areas of the open ocean and are often associated with *Sargassum* rafts (Carr 1987, Walker 1994). Pelagic stage green sea turtles are thought to be carnivorous. Stomach samples of these animals found ctenophores and pelagic snails (Frick 1976, Hughes 1974). At approximately 20 to 25 cm carapace length, juveniles migrate from pelagic habitats to benthic foraging areas (Bjorndal 1997). As juveniles move into benthic foraging areas a diet shift towards herbivory occurs. They consume primarily seagrasses and algae, but are also know to consume jellyfish, salps, and sponges (Bjornal 1980, 1997; Paredes 1969; Mortimer 1981, 1982). The diving abilities of all sea turtles species vary by their life stages. The maximum diving range of green sea turtles is estimated at 110 m (360 ft) (Frick 1976), but they are most frequently making dives of less than 20 m (65 ft.) (Walker 1994). The time of these dives also varies by life stage. The maximum dive length is estimated at 66 minutes with most dives lasting from 9 to 23 minutes (Walker 1994).

The **hawksbill's** pelagic stage lasts from the time they leave the nesting beach as hatchlings until they are approximately 22-25 cm in straight carapace length (Meylan 1988, Meylan and Donnelly 1999). The pelagic stage is followed by residency in developmental habitats (foraging areas where juveniles reside and grow) in coastal waters. Little is known about the diet of pelagic stage hawksbills. Adult foraging typically occurs over coral reefs, although other hard-bottom communities and mangrove-fringed areas are occupied occasionally. Hawksbills show fidelity to their foraging areas over several years (van Dam and Diéz 1998). The hawksbill's diet is highly specialized and consists primarily of sponges (Meylan 1988). Gravid females have been noted ingesting coralline substrate (Meylan 1984) and calcerous algae (Anderes Alvarez and Uchida 1994), which are believed to be possible sources of calcium to aid in eggshell production. The maximum diving depths of these animals are

not known, but the maximum length of dives is estimated at 73.5 minutes. More routinely dives last about 56 minutes (Hughes 1974).

Kemp's ridley hatchlings are also pelagic during the early stages of life and feed in surface waters (Carr 1987, Ogren 1989). Once the juveniles reach approximately 20 cm carapace length they move to relatively shallow (less than 50m) benthic foraging habitat over unconsolidated substrates (Márquez-M. 1994). They have also been observed transiting long distances between foraging habitats (Ogren 1989). Kemp's ridleys feeding in these nearshore areas primarily prey on crabs, though they are also known to ingest mollusks, fish, marine vegetation, and shrimp (Shaver 1991). The fish and shrimp Kemp's ridleys ingest are not thought to be a primary prey item but instead may be scavenged opportunistically from bycatch discards or from discarded bait (Shaver 1991). Given their predilection for shallower water, Kemp's ridley most routinely make dives of 50 m or less (Soma 1985, Byles 1988). Their maximum diving range is unknown. Depending on the life stage a Kemp's ridleys may be able to stay submerged anywhere from 167 minutes to 300 minutes, though dives of 12.7 minutes to 16.7 minutes are much more common (Soma 1985, Mendonca and Pritchard 1986, Byles 1988). Kemp's ridleys may also spend as much as 96% of their time underwater (Soma 1985, Byles 1988).

Leatherbacks are the most pelagic of all ESA-listed sea turtles and spend most of their time in the open ocean. However, they will enter coastal waters and are seen over the continental shelf on a seasonal basis to feed in areas where jellyfish are concentrated. Leatherbacks feed primarily on cnidarians (medusae, siphonophores) and tunicates. Unlike other sea turtles, leatherbacks' diets do not shift during their life cycles. Because leatherbacks' ability to capture and eat jellyfish is not constrained by size or age, they continue to feed on these species regardless of life stage (Bjorndal 1997). Leatherbacks are the deepest diving of all sea turtles. It is estimated that these species can dive in excess of 1000 m (Eckert et al. 1989) but more frequently dive to depths of 50 m to 84 m (Eckert et al. 1986). Dive times range from a maximum of 37 minutes to more routines dives of 4 to 14.5 minutes (Standora et al. 1984, Eckert et al. 1986, Eckert et al. 1989, Keinath and Musick 1993). Leatherbacks may spend 74% to 91% of their time submerged (Standora et al. 1984).

Loggerhead hatchlings forage in the open ocean and are often associated with Sargassum rafts (Hughes 1974, Carr 1987, Walker 1994, Bolten and Balazs 1995). The pelagic stage of these sea turtles are known to eat a wide range of things including salps, jellyfish, amphipods, crabs, syngnathid fish, squid, and pelagic snails (Brongersma 1972). Stranding records indicate that when pelagic immature loggerheads reach 40-60 cm straight-line carapace length they begin to live in coastal inshore and nearshore waters of the continental shelf throughout the U.S. Atlantic (Witzell 2002). Here they forage over hard- and soft-bottom habitats (Carr 1986). Benthic foraging loggerheads eat a variety of invertebrates with crabs and mollusks being an important prey source (Burke et al. 1993). Estimates of the maximum diving depths of loggerheads ranges from 211 m to 233 m (692-764ft.) (Thayer et al. 1984, Limpus and Nichols 1988). The lengths of loggerhead dives are frequently between 17 and 30 minutes (Thayer et al. 1984, Limpus and Nichols

1988, Limpus and Nichols 1994, Lanyan et al. 1989) and they may spend anywhere from 80 to 94% of their time submerged (Limpus and Nichols 1994, Lanyan et al. 1989).

5.2.2.2 ESA-Listed Marine Fish

The historical range of the **smalltooth sawfish** in the U.S. ranged from New York to the Mexico border. Their current range is poorly understood but believed to have contracted from these historical areas. In the South Atlantic region, they are most commonly found in Florida, primarily off the Florida Keys (Simpfendorfer and Wiley 2004). Only two smalltooth sawfish have been recorded north of Florida since 1963 (the first was captured off of North Carolina in 1999 (Schwartz 2003) and the other off Georgia 2002 [Burgess unpublished data]). Historical accounts and recent encounter data suggest that immature individuals are most common in shallow coastal waters less than 25 m (Bigelow and Schroeder 1953, Adams and Wilson 1995), while mature animals occur in waters in excess of 100 meters (Simpfendorfer pers comm. 2006). Smalltooth sawfish feed primarily on fish. Mullet, jacks, and ladyfish are believed to be their primary food resources (Simpfendorfer 2001). Smalltooth sawfish also prey on crustaceans (mostly shrimp and crabs) by disturbing bottom sediment with their saw (Norman and Fraser 1937, Bigelow and Schroeder 1953).

5.2.2.3 ESA-Listed Marine Invertebrates

Elkhorn (*Acropora palmata)* and staghorn (*A. cervicornis*) coral were listed as threatened under the ESA on May 9, 2006. The Atlantic *Acropora* Status Review (*Acropora* Biological Review Team 2005) presents a summary of published literature and other currently available scientific information regarding the biology and status of both these species.

Elkhorn and **staghorn** corals are two of the major reef-building corals in the wider Caribbean. In the Gulf of Mexico, South Atlantic, and Caribbean they are found most commonly in the Florida Keys and U.S. Virgin Islands, though colonies exist in Puerto Rico and Flower Gardens National Marine Sanctuary in the Gulf of Mexico. The depth range for these species ranges from <1 m to 60 m. The optimal depth range for elkhorn is considered to be 1 to 5 m depth (Goreau and Wells 1967), while staghorn corals are found slightly deeper, 5 to 15 m (Goreau and Goreau 1973).

All Atlantic *Acropora* species (including elkhorn and staghorn coral) are considered to be environmentally sensitive, requiring relatively clear, well-circulated water (Jaap et al. 1989). Optimal water temperatures for elkhorn and staghorn coral range from 25° to 29°C (Ghiold and Smith 1990, Williams and Bunkley-Williams 1990). Both species are almost entirely dependent upon sunlight for nourishment, contrasting the massive, boulder-shaped species in the region (Porter 1976, Lewis 1977) that are more dependent on zooplankton. Thus, Atlantic *Acropora* species are much more susceptible to increases in water turbidity than some other coral species.

Fertilization and development of elkhorn and staghorn corals is exclusively external. Embryonic development culminates with the development of planktonic larvae called planulae (Bak et al. 1977, Sammarco 1980, Rylaarsdam 1983). Unlike most other coral larvae, elkhorn and staghorn planulae appear to prefer to settle on upper, exposed surfaces, rather than in dark or cryptic ones (Szmant and Miller 2006), at least in a laboratory setting. Studies of elkhorn and staghorn corals indicated that larger colonies of both species[§] had higher fertility rates than smaller colonies (Soong and Lang 1992).

5.3 Description of the Economic and Social Environment

5.3.1 Introduction

In September 2006, the Working Group on Caribbean spiny lobster of the Western Central Atlantic Fishery Commission (WECAFC) met in Merida, Mexico, to attend the Regional Workshop on the Assessment and Management of Caribbean Spiny Lobster. The primary objective of the workshop was to "review and update the status of Caribbean spiny lobster resource at national and regional levels to seek regional agreement on strategies to address management problems" (WECAFC 2007, p. 2). At the workshop were representatives from The Bahamas, Belize, Brazil, Columbia, Costa Rica, Cuba, Dominican Republic, France (Martinique and Guadeloupe), Haiti, Honduras, Jamaica, Mexico, Nicaragua, the Turks and Caicos Islands, United States of America (also representing Puerto Rico and the U.S. Virgin Islands), and Venezuela, as well as the Caribbean Fishery Management Council (CFMC) and Caribbean Regional Fishery Mechanism (CRFM). The estimated status of the national populations of Caribbean spiny lobster of the participating countries is presented in the Table 5.3.1.

In keeping with the recommendation to allow about 50 percent of the stock to reach maturity, the national representatives at the workshop agreed to a minimum harvest size of 74 mm (2.91 inches) cephalothorax length. Nations with minimum size limits greater than 76 mm were encouraged to retain the larger minimum size limits because of the additional conservation and economic benefits they provide.

Table 5.3.1. Estimated status of national populations of Caribbean spiny lobster of participating countries. *Source*: WECAFC 2007).

Status of Stock	Countries
Under-exploited	Venezuela (some areas)
Fully-exploited or stable	Antigua & Barbuda, Belize, Costa Rica, Cuba, Mexico, Puerto Rico & U.S. Virgin Islands, Turks & Caicos, USA (Florida), Venezuela (some areas)
Over-exploited	Nicaragua, Jamaica, Dominican Republic, Brazil, Columbia, Honduras
Unknown	Bahamas, Guadeloupe, Haiti, Martinique, other Less Antilles countries

5.3.2. Global Commercial Production of Lobster & Caribbean Spiny Lobster

Since 1962, average annual global harvest of Caribbean spiny lobster has been less than such harvest for American and rock lobster (*Jasus* spp.). See Table 5.3.2. Annual global production of Caribbean spiny lobster averages about 54 percent of all spiny lobster production (*Panulirus* spp. and *Palinurus* spp.) and about 17 percent of global production of all lobster.

Table 5.3.2. Global Production of Lobster, including Caribbean Spiny Lobster (CSL), 1962 through 2003. *Source*: FAO Fishstats, reported landings.

	Metric Tons Landed									
Year	CSL (Panulirus argus)	Spiny Lob (Panulirus & Palinurus).	Am Lob (Homarus americanus)	Eur Lob (Homarus gammanus)	Rock Lob. (Jasus)	Norway Lob (Nephrops norvegicus)	Other Lob	Total Lob	% CSL of Total Lob	% CLS of Spiny Lob
1962	16,324	34,859	34,479	3,100	26,700	23,500	0	122,638	13.31%	46.83%
1963	15,426	33,591	33,833	2,600	25,600	27,700	0	123,324	12.51%	45.92%
1964	15,347	32,050	32,915	4,800	30,100	29,900	0	129,765	11.83%	47.88%
1965	18,658	35,876	32,119	2,500	30,400	28,300	0	129,195	14.44%	52.01%
1966	17,827	35,449	30,400	2,300	32,800	30,700	100	131,749	13.53%	50.29%
1967	16,502	34,506	28,029	2,300	28,900	31,100	100	124,935	13.21%	47.82%
1968	19,497	37,939	31,755	2,300	33,600	33,000	100	138,694	14.06%	51.39%
1969	25,239	42,979	33,513	2,000	26,200	37,600	100	142,392	17.73%	58.72%
1970	25,400	43,949	33,100	2,172	24,400	35,716	1,801	141,138	18.00%	57.79%
1971	24,500	44,445	32,600	2,307	20,856	37,574	1,702	139,484	17.56%	55.12%
1972	25,600	48,931	29,700	2,108	20,457	42,010	1,802	145,008	17.65%	52.32%
1973	25,500	47,016	29,200	1,915	20,062	42,025	1,602	141,820	17.98%	54.24%
1974	28,759	50,459	27,203	1,889	19,548	37,916	1,831	138,846	20.71%	56.99%
1975	26,184	49,866	31,185	1,864	17,044	41,293	1,855	143,107	18.30%	52.51%
1976	24,573	52,586	30,308	1,885	16,667	43,314	1,795	146,555	16.77%	46.73%
1977	24,449	49,755	32,215	1,950	16,823	44,666	3,315	148,724	16.44%	49.14%
1978	30,020	54,979	34,790	1,810	17,123	45,947	2,750	157,399	19.07%	54.60%
1979	32,855	58,778	38,447	1,739	17,459	45,625	2,491	164,539	19.97%	55.90%
1980	29,165	54,860	36,851	1,844	17,288	44,271	1,683	156,797	18.60%	53.16%
1981	29,353	52,845	38,703	1,844	18,863	47,193	2,143	161,591	18.16%	55.55%
1982	29,655	51,016	40,698	2,041	17,663	50,146	1,856	163,420	18.15%	58.13%
1983	28,704	52,820	47,707	2,287	17,501	54,008	1,230	175,553	16.35%	54.34%
1984	34,820	58,167	48,637	2,442	18,571	53,531	1,708	183,056	19.02%	59.86%
1985	36,994	62,128	53,574	2,229	18,971	61,724	2,220	200,846	18.42%	59.54%
1986	34,637	63,503	58,861	1,971	16,937	58,832	2,419	202,523	17.10%	54.54%
1987	33,303	61,380	60,095	2,285	17,650	60,826	2,821	205,057	16.24%	54.26%
1988	32,535	63,640	62,576	2,575	17,132	61,566	2,395	209,884	15.50%	51.12%
1989	34,340	65,886	67,964	2,916	12,176	56,699	3,014	208,655	16.46%	52.12%
1990	32,881	62,327	75,534	2,823	11,308	56,162	3,446	211,600	15.54%	52.76%
1991	40,240	66,666	77,222	2,527	9,119	57,708	3,244	216,486	18.59%	60.36%
1992	36,805	65,502	67,134	2,259	11,366	55,825	3,796	205,882	17.88%	56.19%
1993	36,206	62,439	66,552	2,276	11,418	59,238	4,695	206,618	17.52%	57.99%
1994	39,066	65,953	71,663	2,851	10,627	61,468	4,726	217,288	17.98%	59.23%

1995	39,833	65,359	70,631	2,981	11,266	63,774	5,863	219,874	18.12%	60.94%
1996	38,468	62,826	71,866	2,589	10,625	58,990	6,055	212,951	18.06%	61.23%
1997	36,756	69,990	78,146	3,219	12,582	61,596	7,848	233,381	15.75%	52.52%
1998	34,165	61,887	77,155	2,933	10,227	57,379	7,545	217,126	15.74%	55.21%
1999	38,098	66,051	83,105	3,285	10,396	61,770	3,995	228,602	16.67%	57.68%
2000	37,631	69,134	83,062	2,600	10,280	56,628	5,892	227,596	16.53%	54.43%
2001	31,863	62,144	83,803	2,781	9,944	56,317	6,760	221,749	14.37%	51.27%
2002	38,344	64,952	82,422	2,727	10,672	57,228	6,882	224,883	17.05%	59.03%
2003	33,327	64,545	83,682	2,801	10,741	55,210	7,095	224,074	14.87%	51.63%
Ave	*29,758*	*54,382*	*51,510*	*2,443*	*17,811*	*48,238*	*2,873*	*177,257*	*16.71%*	*54.27%*

According to the Food and Agriculture Organization of the United Nations (FAO), world capture of Caribbean spiny lobster has greatly increased from 1950 through 2005, starting at a low of 2,957 metric tons in 1950 to 35,540 metric tons in 2005 (http://www.fao.org/fishery/species/3445). Twice annual global production has exceeded 40,000 metric tons; and since 1984, annual global production has varied between 30,000 and 41,000 metric tons. See Figure 5.3.2.

Among the countries that harvested Caribbean spiny lobster from 1996 through 2005 and reported those landings to the FAO, the Bahamas had the largest average annual landings, followed by Cuba, Brazil, Nicaragua, and the United States. See Figure 5.3.3 and Table 5.3.3. U.S. imports of frozen spiny lobster represented an average of 87 percent of reported annual Caribbean spiny lobster landings from countries other than the U.S. and Cuba. See Figure 5.3.4.

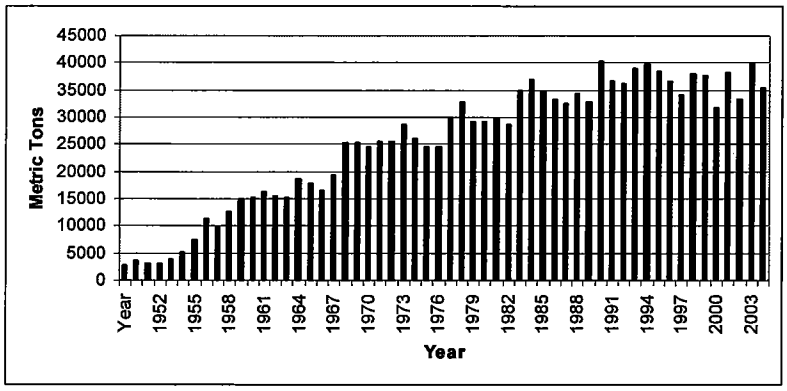


Figure 5.3.2. World Capture of Caribbean Spiny Lobster. *Source*: FAO Fishstats data.

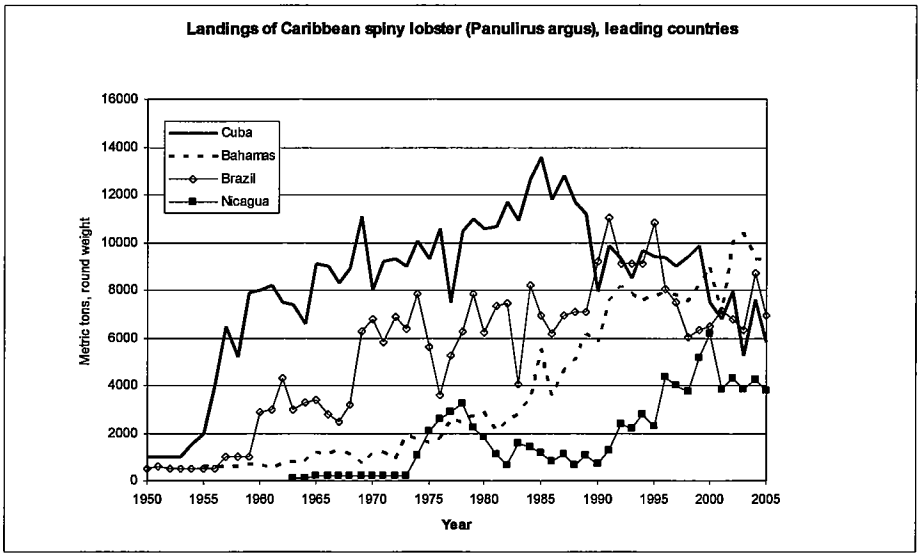


Figure 5.3.3. Top 4 Producers of Caribbean Spiny Lobster, 1950 – 2005. *Source*: FAO Fishstats.

Table 5.3.3. Reported Landings of Caribbean Spiny Lobster, Metric Tons, 1996 – 2005.** *Source*: FAO Fishstats.

Country	10-yr Ave	% Total
Anguilla	60	0.16%
Antigua and Barbuda	254	0.69%
Bahamas	8,660	23.61%
Belize	496	1.35%
Bermuda	28	0.08%
Brazil	7,022	19.14%
British Virgin Islands	57	0.16%
Colombia	439	1.20%
Costa Rica	111	0.30%
Cuba	7,859	21.43%
Dominican Republic	1,089	2.97%
Grenada	31	0.08%
Haiti	499	1.36%
Honduras	1,054	2.87%
Jamaica	373	1.02%
Martinique	156	0.43%
Mexico	797	2.17%
Nicaragua	4,350	11.86%
Puerto Rico	183	0.50%
Saint Kitts and Nevis	25	0.07%
Trinidad and Tobago	7	0.02%
Turks and Caicos Is.	269	0.73%
USA	2,308	6.29%
US Virgin Islands	106	0.29%
Venezuela, Boliv Rep of	507	1.38%
Total	36,681	100.00%

** Panama was among the countries that did not report its landings.

Total, excluding USA	34,373	
Total, ex. USA & Cuba	26,514	
U.S. imports froz spiny	22,982	86.68%

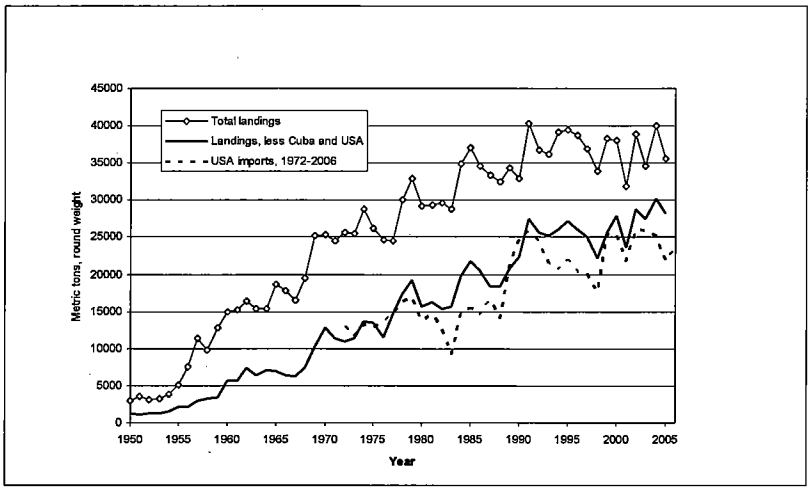


Figure 5.3.4. Global Landings of Caribbean Spiny Lobster and U.S. Imports of Frozen Spiny Lobster. Source: FAO Fishstats.

In 2003, the top five countries with landings of *Panulirus*, *Palinurus*, and *Janus* species were Australia (21.83 percent), The Bahamas (13.78 percent), which combined to produce approximately 35 percent of the world metric ton capture, Indonesia (8.80 percent), Brazil (8.27 percent), and Cuba (8.16 percent) (FAO Fishstats).

Five species of lobster are both commercially and recreationally harvested in U.S. waters. These species are: American lobster (*Homarus americanus*), California spiny lobster (*Panulirus interruptus*), Caribbean spiny lobster (*Panulirus argus*), banded or Hawaiian spiny lobster (*Panulirus marginatus*), and Spanish slipper lobster (*Scyllarides aequinoctialis*). The American lobster is a "true" lobster, whereas the others are members of the spiny/rock lobster group. In the southeast, spotted lobster[††] (*Panulirus guttatus*), ridged slipper lobster (*Scyllarides nodifer*), and smooth tail lobster (*Panulirus laevicauda*) are taken by recreational fishermen only. Since 2000, commercial landings of Hawaiian spiny lobster, which is also known as banded spiny lobster (*Panulirus marginatus*), have declined from 10,394 pounds in 2000 to 4,870 pounds in 2004.

All of the domestic catch of California spiny lobster is taken in California; however, most of the catch has been marketed in Asia and France because dealers from foreign markets have paid lobster fishers prices ranging from $6.75 to $8.00 per pound (California Department of Fish & Game, 2003; Cascorbi, 2004).[‡‡] However, since 2000, California

[††] *Panulirus guttatus* is also called a spotted spiny lobster, Guinea lobster, rock lobster, and spotted crawfish.

[‡‡] The species is also harvested along Mexico's west coast; however, most of the catch occurs in California.

lobster fishers have attempted to reestablish domestic markets for California spiny lobster because of depressed overseas markets.

From 1962 through 2003, continental U.S. commercial landings of Caribbean spiny lobster have ranged from a low of 1,424 metric tons in 1962 to a high of 5,358 metric tons in 1972. See Table 4. Since 1992, an average of 2,626 metric tons has been landed in the continental U.S. annually. Puerto Rico had no reported commercial landings of Caribbean spiny lobster from 1962 through 1998 and the U.S. Virgin Islands had no such landings from 1962 through 1974. Prior to 1999, over 95 percent of commercial landings occurred in the contiguous U.S.; however, since 1999 landings in Puerto Rico have increased resulting in its productive share rising from zero up to a high of over 10 percent in 2001. See Table 5.3.4.

Commercial landings of Caribbean spiny lobster in the contiguous United States have been reported in Alabama, Georgia, Florida, Mississippi, South Carolina, and Texas since 1962; however, Florida dominates. In 35 of the 45 years from 1962 through 2006, Florida landings accounted for all of the annual commercial landings; and in each of the other 10 years, annual landings in Florida represented at least 94 percent of the total pounds commercially landed that year. This explains why the species is also called the Florida spiny lobster. See Table 5.3.5.

Table 5.3.4. U.S., U.S. Virgin Islands and P.R. Commercial Production of Caribbean Spiny Lobster, 1962 – 2003. *Source*: FAO Fishstats.

Year	Metric Tons			Pounds			% of Landings		
	US	USVI	PR	US	USVI	PR	US	USVI	PR
1962	1,424	0	0	3,139,383	0	0	100.00%	0.00%	0.00%
1963	1,626	0	0	3,584,717	0	0	100.00%	0.00%	0.00%
1964	1,647	0	0	3,631,014	0	0	100.00%	0.00%	0.00%
1965	2,608	0	0	5,749,657	0	0	100.00%	0.00%	0.00%
1966	2,427	0	0	5,350,620	0	0	100.00%	0.00%	0.00%
1967	2,002	0	0	4,413,655	0	0	100.00%	0.00%	0.00%
1968	3,247	0	0	7,158,411	0	0	100.00%	0.00%	0.00%
1969	3,839	0	0	8,463,548	0	0	100.00%	0.00%	0.00%
1970	4,600	0	0	10,141,266	0	0	100.00%	0.00%	0.00%
1971	3,900	0	0	8,598,030	0	0	100.00%	0.00%	0.00%
1972	5,400	0	0	11,904,964	0	0	100.00%	0.00%	0.00%
1973	5,100	0	0	11,243,577	0	0	100.00%	0.00%	0.00%
1974	4,938	0	0	10,886,428	0	0	100.00%	0.00%	0.00%
1975	3,363	22	0	7,414,147	48,502	0	99.35%	0.65%	0.00%
1976	2,430	39	0	5,357,234	85,980	0	98.42%	1.58%	0.00%
1977	2,318	59	0	5,110,316	130,073	0	97.52%	2.48%	0.00%
1978	2,080	71	0	4,585,616	156,528	0	96.70%	3.30%	0.00%
1979	2,699	74	0	5,950,277	163,142	0	97.33%	2.67%	0.00%
1980	2,959	49	0	6,523,479	108,027	0	98.37%	1.63%	0.00%
1981	2,463	42	0	5,429,986	92,594	0	98.32%	1.68%	0.00%
1982	2,649	58	0	5,840,046	127,868	0	97.86%	2.14%	0.00%
1983	2,053	29	0	4,526,091	63,934	0	98.61%	1.39%	0.00%
1984	2,369	35	0	5,222,752	77,162	0	98.54%	1.46%	0.00%

1985	1,667	35	0	3,675,107	77,162	0	97.94%	2.06%	0.00%
1986	2,362	54	0	5,207,320	119,050	0	97.76%	2.24%	0.00%
1987	2,169	30	0	4,781,827	66,139	0	98.64%	1.36%	0.00%
1988	2,438	48	0	5,374,871	105,822	0	98.07%	1.93%	0.00%
1989	2,438	57	0	5,374,871	125,664	0	97.72%	2.28%	0.00%
1990	2,606	60	0	5,745,248	132,277	0	97.75%	2.25%	0.00%
1991	2,878	74	0	6,344,905	163,142	0	97.49%	2.51%	0.00%
1992	1,792	*70*	0	3,950,684	154,324	0	96.24%	3.76%	0.00%
1993	2,548	*70*	0	5,617,379	154,324	0	97.33%	2.67%	0.00%
1994	3,420	*70*	0	7,539,811	154,324	0	97.99%	2.01%	0.00%
1995	2,934	*80*	0	6,468,364	176,370	0	97.35%	2.65%	0.00%
1996	3,373	*80*	0	7,436,193	176,370	0	97.68%	2.32%	0.00%
1997	2,783	*80*	0	6,135,466	176,370	0	97.21%	2.79%	0.00%
1998	2,343	*90*	0	5,165,432	198,416	0	96.30%	3.70%	0.00%
1999	2,749	*94*	209	6,060,509	207,235	460,766	90.07%	3.08%	6.85%
2000	2,571	*100*	212	5,668,086	220,462	467,380	89.18%	3.47%	7.35%
2001	1,527	*110*	190	3,366,459	242,509	418,878	83.58%	6.02%	10.40%
2002	2,047	*120*	158	4,512,863	264,555	348,330	88.04%	5.16%	6.80%
2003	1,887	130	196	4,160,124	286,601	432,106	85.27%	5.87%	8.86%

Table 5.3.5. Commercial Landings of Caribbean Spiny Lobster, 1962 – 2006, in Pounds. *Source*: NMFS Accumulated Landings System.

Year	Pounds Landed by State						TOTAL
	FL	GA	MS	AL	SC	TX	
1962	3,107,000	32,200	0	0	0	0	3,139,200
1963	3,585,200	0	0	0	0	0	3,585,200
1964	3,631,100	0	0	0	0	0	3,631,100
1965	5,714,100	35,000	0	0	0	0	5,749,100
1966	5,350,200	0	0	0	0	0	5,350,200
1967	4,413,600	0	0	0	0	0	4,413,600
1968	6,154,900	1,004,200	0	0	0	0	7,159,100
1969	7,581,200	882,200	0	0	0	0	8,463,400
1970	9,869,500	0	212,700	0	33,000	0	10,115,200
1971	8,206,000	0	373,500	132,600	0	0	8,712,100
1972	11,416,800	0	191,000	39,000	165,100	0	11,811,900
1973	11,171,700	0	21,000	1,500	0	0	11,194,200
1974	10,882,600	0	0	800	0	0	10,883,400
1975	7,408,400	0	0	100	0	0	7,408,500
1976	5,345,600	0	0	0	0	0	5,345,600
1977	6,344,100	0	0	0	0	0	6,344,100
1978	5,601,903	0	0	0	0	0	5,601,903
1979	7,828,269	0	0	0	0	0	7,828,269
1980	6,694,842	0	0	0	0	0	6,694,842
1981	5,894,005	0	0	0	0	0	5,894,005
1982	6,496,804	0	0	0	0	0	6,496,804
1983	4,317,000	0	0	0	0	0	4,317,000
1984	6,251,917	0	0	0	0	0	6,251,917

1985	5,739,393	0	0	0	0	0	5,739,393
1986	5,006,704	0	0	0	0	0	5,006,704
1987	6,082,439	0	0	1,141	0	67	6,083,647
1988	6,308,430	0	0	0	0	0	6,308,430
1989	7,673,159	0	0	0	0	0	7,673,159
1990	5,986,170	0	0	0	0	0	5,986,170
1991	7,022,809	0	0	0	0	0	7,022,809
1992	4,486,421	0	0	0	0	0	4,486,421
1993	5,378,807	0	0	0	0	0	5,378,807
1994	7,104,204	0	0	0	0	0	7,104,204
1995	7,023,938	0	0	0	0	0	7,023,938
1996	7,868,547	0	0	0	0	0	7,868,547
1997	7,107,518	0	0	0	0	0	7,107,518
1998	5,829,132	0	0	0	0	0	5,829,132
1999	7,529,605	0	0	0	0	0	7,529,605
2000	5,772,670	0	0	0	0	0	5,772,670
2001	3,411,253	0	0	0	0	0	3,411,253
2002	4,484,598	0	0	0	0	0	4,484,598
2003	4,269,831	0	0	0	0	0	4,269,831
2004	5,006,383	0	0	0	0	0	5,006,383
2005	3,369,856	0	0	0	0	0	3,369,856
2006	4,773,995	0	0	0	0	0	4,773,995

The commercial value of a Caribbean spiny lobster is found entirely in its tail. As such, most international trade of the species has been in frozen lobster tails. However, whole cooked frozen lobsters, live lobsters, and meat are traded as well. Although there is a small live market in the U.S., most is sold as frozen tails. Spiny lobsters imported into the U.S. that originate from the Caribbean basin are typically tailed, sorted by weight, packed in 10-pound boxes, and shipped frozen to the U.S. for consumption. Size is the critical element in the pricing of lobster tails. Caribbean lobster tails are sorted by the industry into the following sizes: 4 oz, 5 oz, 6 oz, 7 oz, 8 oz, 9 oz, 10 oz, 11 oz, 12 – 14 oz, 14 – 16 oz, 16 – 20 oz, and 20 – 24 oz. A 5-oz tail weighs from 4.5 to 5.4 oz, while a 6-oz tail weighs from 5.9 to 6.4 oz.

The Harmonized Commodity Description and Code System (HS) defines rock lobster as lobster within the family *Palinuridae*, which includes *Jasus* species (spp.), *Justitia* spp., *Linuparus* spp., *Palinurus* spp., *Palinustus* spp., *Panulirus* spp., *Projasus* spp., and *Puerulus* spp. The experiences of NOAA law enforcement officers suggest that boxes of frozen lobster that originate from the Caribbean basin are almost exclusively Caribbean spiny lobster (*Panulirus* argus) tails, with the exception being boxes from shipped from Brazil. Brazil also exports Brazilian spiny lobster (*Panulirus* lauvicauda), and some shipments have contained both Caribbean and Brazilian spiny lobsters. The Government of Brazil is acting to implement a rule that would not allow the two species to be exported in the same box.

Caribbean spiny lobster, Cape rock lobster (*Jasus lalandii*) and Australian spiny lobster (*Panulirus cygnus*) make up most, but not all, of the spiny and rock lobster found on the

U.S. mainland market. California spiny lobster makes up about 2 percent of U.S. landings of spiny lobster. From 1997 through 2006 imports of spiny lobster have comprised more than 90 percent of U.S. supply. See Table 5.3.6.

Table 5.3.6. U.S. Supply of Spiny Lobsters, 1997 – 2006. *Source*: Fisheries of the United States 2006.

Year	U.S. Commercial Landings, in lbs	Imports(1), in lbs	Total, in lbs	Exports(2), in lbs	Total Supply, in lbs	Imports as % Supply	Net Imports, in lbs
	Round weight						
1997	7,240,000	74,120,000	81,360,000	5,842,000	75,518,000	91.10%	68,278,000
1998	5,935,000	95,801,000	101,736,000	1,802,000	99,934,000	94.17%	93,999,000
1999	6,692,000	86,240,000	92,932,000	2,346,000	90,586,000	92.80%	83,894,000
2000	6,463,000	94,433,000	100,896,000	1,571,000	99,325,000	93.59%	92,862,000
2001	4,082,000	76,667,000	80,749,000	2,158,000	78,591,000	94.94%	74,509,000
2002	5,188,000	86,923,000	92,111,000	4,890,000	87,221,000	94.37%	82,033,000
2003	4,863,000	94,423,000	99,286,000	6,047,000	93,239,000	95.10%	88,376,000
2004	5,938,000	94,720,000	100,658,000	7,506,000	93,152,000	94.10%	87,214,000
2005	4,144,000	86,987,000	91,131,000	7,766,000	83,365,000	95.45%	79,221,000
2006	5,605,000	85,752,000	91,357,000	14,670,000	76,687,000	93.86%	71,082,000

From 2002 through 2007, total U.S. imports of frozen rock lobster and other sea crawfish (*Palinurus* spp., *Panulirus* spp. and *Jasus* spp.) averaged 12,374.2 metric tons with a value of about $355.5 million, annually.[§§] The top 5 countries of origin of those imports by volume (metric tons) are Brazil, The Bahamas, Australia, Honduras and Nicaragua, who collectively represent about 68 percent of the total volume of those imports. See Table 5.3.7. Those same countries account for about 78 percent of the total dollar value of those imports. Of the top 10 countries of origin by volume of frozen rock lobster and other sea crawfish imports, 6 of those countries (Brazil, The Bahamas, Honduras, Nicaragua, Columbia and Belize) export Caribbean spiny lobster to the U.S.

Rock lobster and other sea crawfish are also imported not frozen; however, frozen imports dominate. From 2002 through 2007, U.S. imports of not frozen rock lobster (HS 0036210000) averaged 164 metric tons with a value of $2.9 million annually, as compared with about 12,372 metric tons with a value of $355.5 million for frozen. The top five countries of origin during those years by volume were Mexico (122 metric tons), Australia (10 metric tons), Peoples Republic of China (5.5 metric tons), Taiwan (4.6 metric tons), and the United Kingdom (3.3 metric tons). Mexico is exporting increasing numbers of live Caribbean spiny lobster, and it is assumed that the bulk of its exports of not frozen rock lobster are these live specimens.

[§§] Harmonized import code HS 03 includes fish, crustaceans, mollusks, and aquatic invertebrates. HS 0306 includes crustaceans only. HS 030611000 includes rock lobster and other sea crawfish, frozen. HS 0306210000 includes rock lobster and other sea crawfish, not frozen.

Table 5.3.7. Top 20 Countries of Origin for Imports of Frozen Rock Lobster and Other Sea Crawfish (HS 0036110000), 6-Year Average, 2002 – 2007. Source: U.S. Customs Data.

Trading Partner	MT	% Total	Combined %	1000s $	% Value	Combined %
BRAZIL	2,926.6	23.65%	23.65%	75,739	21.30%	21.30%
BAHAMAS, THE	1,518.1	12.27%	35.92%	50,135	14.10%	35.41%
AUSTRALIA(*)	1,492.6	12.06%	47.99%	64,635	18.18%	53.59%
HONDURAS	1,281.4	10.36%	58.34%	42,124	11.85%	65.44%
NICARAGUA	1,239.2	10.02%	68.36%	39,101	11.00%	76.44%
CHINA, PEOPLES REPUB	626.6	5.06%	73.42%	3,741	1.05%	77.49%
SOUTH AFRICA, REPUBL	520.6	4.21%	77.63%	16,250	4.57%	82.06%
UNITED ARAB EMIRATES	484.0	3.91%	81.54%	10,374	2.92%	84.98%
COLOMBIA	320.2	2.59%	84.13%	8,700	2.45%	87.43%
BELIZE	222.3	1.80%	85.93%	7,488	2.11%	89.53%
MEXICO	194.1	1.57%	87.50%	6,039	1.70%	91.23%
OMAN	190.8	1.54%	89.04%	4,329	1.22%	92.45%
THAILAND	184.9	1.49%	90.53%	2,486	0.70%	93.15%
TAIWAN	133.0	1.07%	91.61%	1,771	0.50%	93.65%
PANAMA	131.7	1.06%	92.67%	2,615	0.74%	94.38%
NEW ZEALAND(*)	118.5	0.96%	93.63%	3,175	0.89%	95.27%
JAMAICA	113.3	0.92%	94.55%	3,496	0.98%	96.26%
DOMINICAN REPUBLIC	85.5	0.69%	95.24%	1,803	0.51%	96.76%
CHILE	67.7	0.55%	95.78%	979	0.28%	97.04%
SPAIN	66.1	0.53%	96.32%	494	0.14%	97.18%

*: denotes a country that is a summarization of its component countries. Australia(*) includes Australia, Christmas Island, Cocos (Keeling) Island, Heard Island and McDon, and Norfolk Island. New Zealand(*) includes Cook Islands, New Zealand, Niue, and Tokelau.

5.3.3 Federal Management of Caribbean Spiny Lobster under the MSA

The Caribbean spiny lobster in the U.S. Exclusive Economic Zone (EEZ) of the Atlantic Ocean and Gulf of Mexico is jointly managed by the South Atlantic and Gulf of Mexico Fishery Management Councils through the Fishery Management Plan for Spiny Lobster (Spiny Lobster FMP) in the Gulf of Mexico and South Atlantic. In the U.S. EEZ of the Caribbean Sea surrounding Puerto Rico and the U.S. Virgin Islands, the resource is managed by the Caribbean Fishery Management Council (Caribbean FMC) through its Spiny Lobster FMP. In the Gulf and South Atlantic, the commercial fishery and, to a large extent, the recreational fishery occurs off South Florida, primarily in the Florida Keys. In order to streamline a management process that involves both state and federal jurisdictions, the Gulf and South Atlantic Spiny Lobster FMP basically extends the Florida Fish and Wildlife Commission's rules regulating the state fishery to the southeastern U.S. EEZ from North Carolina to Texas.

The Gulf and South Atlantic Spiny Lobster FMP was implemented on July 26, 1982 (47 *Federal Register (FR)* 29203). The FMP, for the most part, extended Florida's rules of regulating the fishery to the EEZ throughout the range of the fishery; and since 1982, it has been amended seven times.

The Gulf and South Atlantic Spiny Lobster FMP was first amended on July 15, 1987 (52 *FR* 22659) with certain rules deferred and implemented on May 11, 1998 (53 *FR* 17196) and on July 30, 1990 (55 *FR* 26448). This amendment (Amendment 1) updated the rules to be more compatible with Florida law. Amendment 1 required a commercial permit, limited possession of undersized lobsters as attractants, required a live well, modified recreational possession and seasonal regulations, modified closed season regulations, required the immediate release of egg-bearing lobsters, modified the minimum size limit, required a permit to separate the tail at sea and prohibited possession or stripping of egg-bearing slipper lobsters.

Amendment 2 was approved on October 27, 1989 (54 *FR* 48059) and provided a regulatory amendment procedure for instituting future compatible state and federal rules without amending the Spiny Lobster FMP to ensure federal-state compatibility. Amendment 2 modified the problems/issues and objectives of the FMP, modified the statement of optimum yield, established a protocol and procedure for an enhanced cooperative management system, and added to the vessel safety and habitat sections of the FMP.

Amendment 3 was implemented on March 25, 1991 (56 *FR* 12357) and contained provisions for adding a scientifically measurable definition of overfishing; an action plan to prevent overfishing, should it occur, as required by the National Standards of the Magnuson-Stevens Fisheries Conservation and Management Act (50 *CFR* Part 600); and the requirement for collection of fees for the administrative cost of issuing permits.

The first Regulatory Amendment to the Spiny Lobster FMP was implemented on December 30, 1992 (Regulatory Amendment 1). Regulatory Amendment 1 addressed: 1) the extension of the Florida spiny lobster trap certificate system for reducing the number of traps in federal waters off Florida, 2) the revision of the FMP's commercial permitting requirements, 3) the limitation of the number of live undersize lobster used as attractants for baiting traps, 4) the specification of gear allowed for commercial fishing in the U.S. EEZ off Florida, 5) the specification of the possession limit of spiny lobsters by persons diving at night, 6) the requirement of lobsters harvested by divers to be measured without removing from the water, and 7) the specification of uniform trap and buoy numbers for federal waters off Florida. All of these changes were implemented through the framework procedure of the FMP as established by Amendment 2.

The second Regulatory Amendment (Regulatory Amendment 2) was approved in March 1993 and implemented in August 1993 (58 *FR* 38978). Regulatory Amendment 2 addressed: 1) a change in the days for the special recreational season in federal waters off Florida, 2) a prohibition on night-time harvest off Monroe County, Florida, during that season, 3) specifies allowable gear during that season, and 4) provides for different bag limits during that season off the Florida Keys and federal waters off other areas of Florida.

Amendment 4 was implemented on September 13, 1995 (60 *FR* 41828). It provided a bag limit of 2 lobsters per day for all fishers in federal waters off North Carolina, South Carolina, and Georgia (50 *CFR* §640.23).

Amendment 5 of the Spiny Lobster FMP was part of the Comprehensive Amendment Addressing Essential Fish Habitat in Fishery Management Plans of the South Atlantic Region, which the National Marine Fisheries Service (NMFS) approved on June 3, 1999. Amendment 6 was part of the Comprehensive Amendment Addressing Sustainable Fishery Act Definitions and Other Required Provisions in FMPs of the South Atlantic Region. NMFS approved the Comprehensive Amendment in October 1998 and it was implemented on December 2, 1999 (64 *FR* 59126). Similarly, the Gulf of Mexico Fishery Management Council developed Generic Amendments to address Essential Fish Habitat and Sustainable Fishery Act. The former described the distribution and relative abundance of juvenile and adult spiny lobster for offshore, near-shore, and estuarine habitats of the Gulf; and the latter updated the description of the spiny lobster fisheries and provided fishing community assessment information for Monroe County, Florida.

Amendment 7 was implemented under a Generic Amendment that created the two Tortugas Marine Reserves: Tortugas North (120 square nautical miles) and Tortugas South (60 square nautical miles). This amendment prohibits fishing for or possession of spiny lobster in either of the two reserves. It was implemented on July 19, 2002 (67 *FR* 47467).

Currently, harvest or possession of spiny lobsters in the U.S. South Atlantic EEZ is regulated in 50 CFR 640. According to 50 CFR 640.4, anyone who sells, trades, or barters or attempts to sell, trade, or barter spiny lobster that was harvested or possessed in the EEZ off Florida, or harvested in the EEZ other than off Florida and landed in Florida must have licenses and certificates specified to be a commercial harvester, as defined in Rule 46-24.002(a), Florida Administrative Code. Similarly, any person who sells, trades, or barters or attempts to sell, trade, or barter a Caribbean spiny lobster harvest in the U.S. EEZ other than off Florida, a Federal vessel permit must be issued and on board the harvesting vessel (50 CFR §640.4(a)(1)(ii)).

The commercial and recreational fishing season for spiny lobster in the EEZ off Florida and the EEZ off the Gulf States, other than Florida, begins on August 6 and ends on March 31 (50 CFR §640.20(b)). No person may possess a Caribbean spiny lobster in or from the Gulf and South Atlantic EEZ with a carapace length of 3.0 inches (7.62 cm) or less or a separated tail with a length less than 5.5 inches (13.97 cm) (50 CFR §640.21(b)). Current regulation prohibits the possession of a spiny lobster or parts thereof in or from the Gulf and South Atlantic EEZ from which the eggs, swimmerettes or pleopods have been removed (50 CFR §640.21(a)); and requires any berried spiny lobster to be returned immediately to the water (50 CFR§640.7(g)).

The Caribbean Fishery Management Council manages the Caribbean spiny lobster fishery in the U.S. Caribbean EEZ and territorial seas of Puerto Rico and the U.S. Virgin Islands through the FMP for the Spiny Lobster Fishery of Puerto Rico and the U.S.

Virgin Islands. The Caribbean Spiny Lobster FMP was implemented in 1985. The associated regulations include that no person may possess a Caribbean spiny lobster in or from the Caribbean EEZ with a carapace length less than 3.5 inches (8.9 cm) (50 CFR §622.37(b)).

On July 26, 2007, a Notice of Intent was published in the *Federal Register* (72 *FR* 41063) announcing the Caribbean Fishery Management Council's intent to prepare a draft environmental impact statement to describe and analyze management alternatives to be included in an amendment to its Spiny Lobster FMP and the Gulf and South Atlantic Spiny Lobster FMP. The Caribbean, Gulf and South Atlantic Fishery Management Councils have expressed concern about the effects of imports of spiny lobster that are smaller than the size limits in the U.S. spiny lobster FMPs. In many instances, imports are also undersized based on size limits established in the country of origin. The Caribbean FMC has expressed intent to amend its Spiny Lobster FMP of a minimum size limit on imported spiny lobster. NOAA Fisheries believes amendment of the Gulf and South Atlantic Spiny Lobster FMP should be addressed concurrently.

5.3.4 Other Federal Laws and Regulations that Protect Spiny Lobster

Lacey Act

The Lacey Act, as amended in 1981 (16 USC §§ 3372 et seq.) prohibits any person from importing, exporting, transporting, selling, receiving, acquiring, or purchasing in interstate or foreign commerce any fish or wildlife taken, possesses, transported, or sold in violation of any law or regulation of any state or in violation of any foreign law. For example, it is a violation of the Lacey Act to import Caribbean spiny lobster that is in violation of the exporting country's minimum harvest-size standard. Many of the countries that harvest Caribbean spiny lobster have minimum harvest size standards. See Table 5.3.8.

NOAA's Office of Law Enforcement, Southeast Region, has made several significant Lacey Act cases against individuals involved in importing undersized lobsters from Honduras, Nicaragua, The Bahamas, and Brazil.

In July 2003, a Miami man pleaded guilty to importing more than $2.8 million worth of undersized spiny lobster from Nicaragua. The man and others illegally shipped into the U.S. about 190,000 pounds of frozen spiny lobsters below Nicaragua's minimum legal size of 5 ounces (Associated Press July 3, 2003).

Table 5.3.8. Minimum Size Restrictions of Caribbean Spiny Lobster for Harvesting Countries. *Source*: FAO.

Country	Carapace Length	Tail Length	Tail Weight	Total Weight	Total Length	CRFM Member	% 2003 World Harvest	Agreed to 74 mm (2.91 in.) cephalothorax length*
Anguilla	95 mm					Yes	0.18	
Antigua and Barbuda						Yes	0.73	
Bahamas	82.5 mm[a]	5.5 in. or 139.7 mm				Yes	31.14	Yes
Barbados						Yes	0.00	
Belize	76.2 mm or 3 in.	113 mm[a]	4 oz.			Yes	1.63	Yes
Bermuda	3 5/8 in. or 92 mm		12 oz. or 340 g			No	0.09	
Brazil	75 mm[a]	130 mm[a]					16.02	Yes
British Virgin Islands	3.5 in.			1 lb.		Yes	0.01	
Columbia-San Andres	80.1 mm[a,c]	140 mm[a]				No	0.8	Yes
Columbia-Guajira	68.9 mm[a]	210 mm[a]		385 g[a]		No		
Costa Rica						No	0.08	Yes
Cayman						No	0.00	
Cuba	69 mm[a]	150 mm[a]			210 mm[a]		15.80	Yes
Dominica						Yes	0.00	
Dominican Republic	80.5 mm[a]	120 mm[a,b]			240 mm[a]	No	2.41	Yes
Grenada	3.7 in.					Yes	0.08	
Guadaleupe						No	0.00	
Gautemala						No	0.00	
Guyana						Yes	0.00	
Haiti						Yes	0.60	Yes
Honduras	80.1mm[a]	145 mm[a]	142 g[a]			No	3.06	Yes
Jamaica	7.62 cm or 3 in.					Yes	1.50	Yes
Martinque						No	0.57	Yes
Mexico	74.6 mm[a]	135 mm[a]			223 mm[a]	No	3.15	Yes
Monserrat						Yes	0.00	
Nicaragua	75 mm[a]	135 mm[a]	142 g[a]		230 mm[a]	No	11.56	Yes
Panama						No	0.00	
Puerto Rico	3.5 in.					No	0.59	Yes
St. Kitts & Nevis	9.5 cm or 3.75 in.					Yes	0.03	
St. Lucia	95[a]		340 g[a]			Yes	0.00	
Saint Vincent and the Grenadines	95 mm or 3.5 in.			1.5 lb.	9 in.	Yes	0.00	
Turks and Caicos	3.57 in. or 83 mm		7 oz. or 142 g			Yes	0.74	Yes
Trinidad and Tobago						Yes	0.01	
USA (Florida)	3 in. or 76 mm	5.5 in.				No	5.66	Yes
U.S. Virgin Islands	3.5 in.					No	0.39	Yes
Venezuela	120 mm[a]			900 - 1,000 g[a]		No	3.18	Yes

a: FAO Fisheries Report No. 715, page 257.
b: Without telson.
c: Converted from another measurement.
*: At the September 2006 Regional Workshop on the Assessment and Management of Caribbean Spiny Lobster of the Working Group on Caribbean spiny lobster of the WECAFC.

In December 2003, a Norfolk, Virginia-based seafood company and its vice president pleaded guilty in federal court in Miami to conspiracy to import more than $2 million worth of undersized spiny lobster from Nicaragua to the United States. The company purposely mislabeled boxes of frozen undersized lobster to conceal that the boxes held 2-, 3-, and 4-ounce tails, all of which were below Nicaragua's legal 5-ounce limit for lobster processing and trade (South Florida Business Journal, December 15, 2003).

In May 2006, Winn-Dixie, Inc. pleaded guilty to illegal possession, transportation, and sale of undersized Caribbean spiny lobster contrary to Florida laws and regulations and the Lacey Act. On October 29, 2002, Winn-Dixie received a shipment at one of its Florida facilities of about 6,000 pounds of Caribbean spiny lobster imported from Brazil that it purchased through a broker in Illinois. It was determined that about 4,600 pounds of lobster tail failed to meet Florida and Brazil size standards (States News Service; May 22, 2006).

Florida Keys National Marine Sanctuary and Protection Act

In November 1990, Congress passed the Florida Keys National Marine Sanctuary and Protection Act that established the Florida Keys National Marine Sanctuary (FKNMS) (Pub.L 101-605).*** The FKNMS is comprised of 9,660 square kilometers (about 2,900 square nautical miles) of coastal waters off the Florida Keys. It extends approximately 220 miles southwest of the southern tip of the Florida peninsula and includes the world's third largest coral barrier reef. Within the Sanctuary are 24 no-take zones. Fifty-eight percent of the Sanctuary resides in Florida waters and 48 percent is in federal waters. Both NOAA and the State of Florida manage the Sanctuary. The waters of the FKNMS are within the jurisdiction of both the South Atlantic and Gulf of Mexico fishery management councils.

Biscayne Bay National Park

Originally established as a national monument by Congress in 1968, Biscayne Bay National Park was re-designated as a national park in 1980. The Park's purpose is to preserve and protect its rare combination of terrestrial and aquatic natural resources. The Park includes approximately 173,000 acres in Miami-Dade County, and is about 22 miles long. The park extends from shore about 14 miles to the 60-foot contour and contains about 72,000 acres of coral reefs. Under existing Supervisor's rules for the Park, several areas are closed year-round to public entry to protect sensitive resources and wildlife. This also means not taking Caribbean spiny lobster in those areas.

*** The National Marine Sanctuary System was created in 1972. Two areas in the Florida Keys were designated as sanctuaries, the first in 1975 and the second in 1981. These areas were included in the Florida Keys National Marine Sanctuary in November 1990.

Buck Island Reef National Monument

Buck Island Reef National Monument (Buck Island NM) in St. Croix was established in 1961 and expanded more than twenty times in size in 2001, from 880 acres to over 19,000 acres. Its area is mostly underwater and it encompasses 7 percent of the shelf around St. Croix. Federal regulation prohibits the harvest or collection of Caribbean spiny lobster within the boundaries of the national monument (36 CFR § 7.73(a)). Virgin Islands Coral Reef National Monument (Virgin Islands NM) in St. John was established in 2001 and its area encompasses 3 percent of the St. John/St. Thomas shelf. Harvest or collection of Caribbean spiny lobster is prohibited (36 CFR § 7.46(a)). The National Park Service manages both of these national monuments.

Virgin Islands National Park

Virgin Islands National Park on St. John was established by Congress in 1956 and today is managed by the National Park Service. It comprises more than half of the island of St. John and almost 9 square miles of water surrounding the island. Virgin Islands National Park attracts almost one million visitors a year, most of them arriving on cruise ships or smaller boats. Caribbean spiny lobster may be taken by hand or hand held hook within the park (36 CFR § 7.74(e)(3)).

Dry Tortugas National Park

The Dry Tortugas National Park was established by Congress in 1992 (Public Law 102-525). Possession of Caribbean spiny lobster is prohibited within boundaries of the park unless the individual took the lobster outside the park waters and the person in possession has proper State/Federal licenses and permits (36 CFR § 7.27(b)(4)(i)). The presence of lobster aboard a vessel in park waters, while one or more persons from such vessel are overboard constitutes prima facie evidence that the lobsters were harvested from park waters in violation of the above regulation.

Past Federal Actions

Indirect, but related, past federal actions that greatly affected the Caribbean spiny lobster fishery were the Migration and Refugee Assistance Act of 1962 and Cuban Refugee Adjustment Act of 1966. The Migration and Refugee Assistance Act authorized assistance to or in behalf of refugees in the United States, which included business loans. The Cuban Refugee Adjustment Act adjusted the status of Cuban refugees to that of lawful permanent residents, which enabled them to acquire commercial fishing vessels.[†††] According to Moe (1991), many of the 300,000 Cubans who fled Cuba used those government loans to obtain boats to fish lobster in Bahamian waters.[‡‡‡] When Bahamian

[†††] As of August 1, 1966, there were 165,000 refugees from Cuba in the U.S. without legal permanent resident status (Immigration Information, vol. 19, Interim Decision #3069).

[‡‡‡] The Bartlett Act of 1964 excluded foreign fishing vessels from fishing within the United States's territorial sea, which was defined as all ocean waters within 3 miles from the coast of the United States, its territories and possessions and the Commonwealth of Puerto Rico" (Public Law 88-308). Two years later

waters were closed to U.S. fishermen, those lobster fishermen moved their operations into U.S. waters.

5.3.5 State & Territory Spiny Lobster Laws and Fisheries Histories

5.3.5.1 Florida

Up until the twentieth century, landings of spiny lobster were low because the fishery was largely a bait fishery that supported Florida's finfish industry (Labisky et al., 1980).[§§§] However, at the turn of the century a spiny lobster commercial fishery began to develop due to the construction of the Overseas Railroad in 1912, which allowed dealers to ship spiny lobsters to northern hotels and restaurants (ibid., p. 30). The first legislation enacted by the State of Florida (State) to conserve the supply of spiny lobster in response to the growing commercial retail trade was in 1919 when it implemented a seasonal closure from March 1 to June 1, but which allowed the taking of lobster for research, fish bait, or propagation throughout the year. Two years later the closed season was changed to March 21 to June 21.

In the nineteenth century and up until the early twentieth century, spiny lobsters were typically harvested in shallow waters of Key West with cast nets, gill nets, haul seines, and grains (Labisky et al., 1980). Continuous increases in commercial demand in the early 1900s, however, stimulated expansion of the fishery so that by 1922 the primary fishing grounds extended from the shallow waters surrounding Key West to a "25-mile linear zone that encompassed the southern shores of the lower Florida Keys and the shallow Atlantic reef area both east and west of Key West" (Labisky et al., 1980). The expansion of the fishery into deeper waters necessitated gear changes from cast nets, gill nets, haul seines and grains to increasing use of bully nets and wire traps.

From 1925-26 to 1927-28 total landings increased from 88,000 pounds to 873,000 pounds, an almost 900 percent increase. The State amended its lobster regulations in 1929 to increase the length of the closed season from three to four months (March 21 to July 21) and set, for the first time, a minimum legal size limit, which was one pound (Labisky *et* al., 1980; Prochaska and Baarda, 1975).

Despite declines in landings and prices per pound during the 1930s, the development of deep-freeze processing techniques enabled further expansion of the commercial retail market for spiny lobster in the 1940s. From 1940 to 1949 total commercial landings increased from 0.4 million pounds to 3.58 million pounds and price per pound increased from $0.07 to $0.22. By the 1940s, the most popular commercial fishing gears were wooden slat-traps, bully nets, and ice-can traps in that order. Slat-traps were used primarily in deeper waters "associated with the offshore reef on the Atlantic side of the Keys; bully nets were used in the shallow waters of Florida Bay; and ... ice cans were used in shallow inshore waters" (Labisky *et* al., 1980, p. 33). Traps were still pulled by

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Congress passed the Contiguous Fisheries Zone Act (Public Law 89-658), which created a 9-mile contiguous zone extending out from the 3-mile limit from which foreign fishing vessels would be excluded.

[§§§] According to Moe (1991, p. 39), spiny lobsters are "excellent bait for large snapper and grouper".

hand, however, which limited their numbers and use in deep waters (Moe, 1991). Also in the 1940s, there was an increase in imports of spiny lobster tails from the Caribbean, South Africa, and Australia (Labisky *et* al., 1980).

The south Florida spiny lobster fishery continued to grow in the 1950s. From 1952 to 1959 the number of boats/vessels in the fishery expanded from 102 to 254; the price per pound increased from $0.18 per pound in 1950 to $0.30 per pound in 1959; the number of traps increased from 17,000 in 1951 to approximately 52,000 in 1959; and commercial landings increased from 1.56 million pounds in 1950 to 3.18 million pounds in 1959.[****] With that growth came more State action to protect the supply of spiny lobster. In 1953, the Florida Legislature changed the timing of the closed season from the period of March 21 to July 21 to the period of April 15 to August 15, and redefined the legal size limit from one pound to a minimum tail size of 6 inches; however, in 1955, it reestablished the closed season from March 31 to August 1 (Labisky et al., 1980). In 1954, the State began to require lobster permits and fishers to report the number of traps fished (Florida Marine Fisheries Commission, December 5, 1991).

Moe (1991) notes three developments in the 1950s that had a significant impact on the spiny lobster fishery. First, the development of skin and SCUBA diving, especially around the Florida Keys, provided easy opportunities to hunt lobster with spear guns, which was legal at that time. Second, the development of hydraulic systems to haul traps eventually eliminated pulling traps in by hand. Third, lobster fishers began to keep 2 or 3 undersized lobsters, known as "shorts", in traps as attractants because the use of shorts increased catches significantly.[††††] In a short period of time, "every fisherman used shorts whenever possible as well as the standard cowhide bait" (Moe, 1991, p. 385.).

According to Labisky *et al.*, the south Florida spiny lobster fishery radically changed in the1960s with the influx of thousands of Cubans into the country. Many of the approximately 300,000 Cuban immigrants obtained U.S. government loans and bought boats to fish for lobster in Bahamian waters (Moe, 1991; Labisky *et al.*, 1980). Most of these immigrants' boats were Miami based. In 1975 when Bahamian waters were closed to foreign fishing, these Miami-based boats began to fish locally.

The first gear restriction occurred in 1965, which specified the types of gear that could be used to harvest lobster (Prochaska and Baarda, 1975; Williams, 1976). Wood traps could be used, provided that they were not greater than 3 x 2 x 2 feet or the equivalent in cubic feet.[‡‡‡‡] Permit numbers had to be placed permanently on each trap or other device used

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[****] According to Labisky et al., there were 376 boats/vessels in 1950 and 319 boats/vessels in 1951 that were engaged in spiny lobster fishing. It is unclear why the number of boats/vessels fell to 102 in 1952, or if the 1950 and 1951 figures are questionable estimates. A boat is a watercraft with carrying capacity less than 5 tons, whereas a vessel is a watercraft with a carrying capacity of 5 tons or greater.

[††††] Experiments have shown that traps baited with short lobsters catch approximately three times more lobster than traps baited with any other method (Moe, 1991; Heatwole *et al.*, 1988).

[‡‡‡‡] As stated by Prochaska and Baarda (p. 26): The 1965 law "requires that the constructed traps be of wood slats so that when a trap is lost it will be broken up with time and thus will not continue to catch lobsters which would then be lost for both breeding stock or human consumption. The wood slat traps can be protected on the sides by reinforcement with 16 gauge, one inch poultry wire, though the bottom and top

to catch lobsters, as well as on the buoy that was used to mark the traps (Prochaska and Baarda, 1975). Also, traps and buoys had to be color-coded; and up to 20 traps could be attached to a trot-line. That same year the State set the minimum carapace size to 3 inches and minimum tail measurement to 5.5 inches.

In 1968 the minimum carapace length was reduced to 3 inches. About the same time, the fishery in the Florida Keys had expanded from the Key West area to the middle keys (FWRI 2007). A 1969 act allowed a 6-inch minimum on tails separated under special permit.

In 1971, the State changed its regulations to establish a $50 permit fee and allow landings of spiny lobsters harvested from international waters during the State's closed season (Labisky *et al.*, 1980). By this time there were increasing conflicts between commercial fishers and recreational divers who harvested spiny lobster, so in 1975 the State enacted legislation that created the special 2-day sport season that is scheduled the last consecutive Wednesday and Thursday of July each year, one week before the start of the commercial season. During the special 2-day sport season, recreational lobster fishers are allowed up to 6 lobsters per person per day in the Monroe County and Biscayne Bay National Park and up to 12 lobsters per person per day in other areas of the state. The bag limit during the regular lobster-fishing season is 6 lobsters per person per day, or 24 per boat per day, whichever is greater.[§§§§]

The Florida Marine Fisheries Commission (FMFC) adopted its first fisheries management plan (FMP) for spiny lobster on July 2, 1987. For the most part, the management plan continued existing practices; however, among the new requirements was the provision of having on board live wells with re-circulating water when transporting short lobsters (Florida Marine Fisheries Commission (FMFC), December 5, 1991). In 1988, a three-year moratorium on the issue of new permits was established in an effort to limit total commercial effort. In July 1990, the FMP was amended, and among its changes was the designation of spiny lobster as a restricted species (RSE) after July 1993. The following year the Florida legislature enacted laws, which prohibited the FMFC from adopting rules that would prohibit the possession of undersized lobsters or require traps to have escape gaps before April 1998.

In 1991, Florida instituted a recreational spiny lobster license (also known as a crawfish permit), which was purchased as an additional endorsement to the state's recreational saltwater fishing license. Also that year the State began to use two annual mail surveys of persons with a lobster license/permit to estimate the number and landings of lobsters

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cannot be so reinforced. Partial wire reinforcing is allowed to protect the trap from the 'ravages of turtles'. Ice cans, drums and other similar devices are permitted provided that they are not equipped with grains, spears, grabs, hooks or similar devices."

[§§§§] Recreational fishers are not allowed to use traps to capture lobster. Bully nets and diving (breath-hold, SCUBA, or hookah) are the only legal recreational fishing methods.

harvested by recreational fishers who take lobsters during the special 2-day sport season and from opening day to the first Monday in September of the regular fishing season.*****

The number of traps increased greatly from the mid 1970s through the 1980s, rising from 219,100 in 1970 to 979,766 in 1991. This rapid growth resulted in increased user conflicts on the water, excessive mortality of shorts, declining yield per trap, and concerns about trap debris (FFWCC 2007). See Figure 5.3.5.

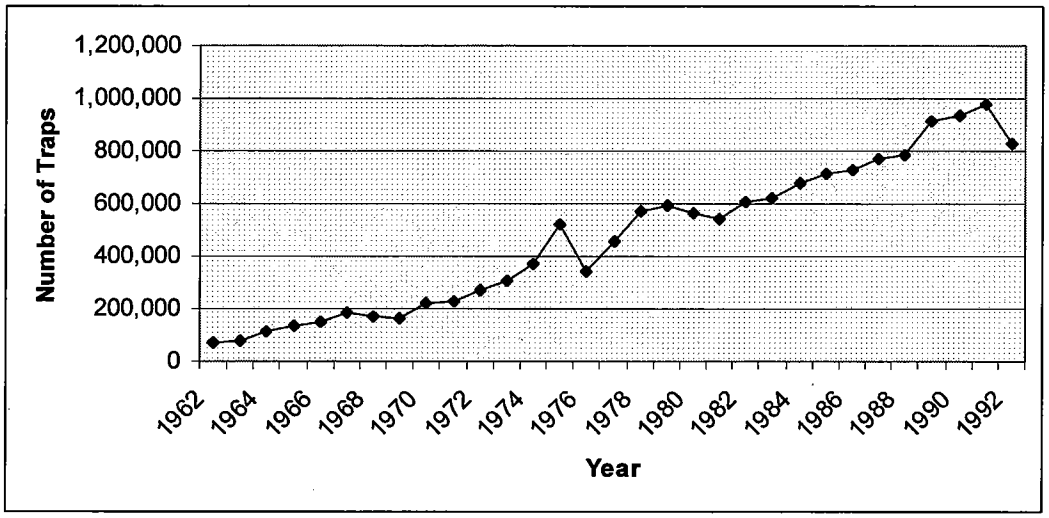


Figure 5.3.5. Annual Numbers of Traps, 1962 – 1993.

In 1992, Florida implemented the spiny lobster Trap Certificate Program (TCP), which regulated the total number of traps by requiring a certificate for each trap and setting a limit on the number of certificates. When first implemented, the initial certificate allocation was based on the trap use that had been reported for the three preceding years (Larkin and Milon).

The FFMFC is authorized to reduce the total number of certificates by decreasing the number of each individual's traps by no more than 10 percent annually. In 1993, Caribbean spiny lobster fishermen set 704,234 traps. That same year, the Florida Fish and Wildlife Commission (FFWCC) implemented the Lobster Trap Certificate Program to reduce the number of lobster traps allowed in the fishery. Since the initial allocation of certificates, the Florida Fish and Wildlife Conservation Commission (FFWCC or FWC) has decreased the number of certificates four times at 10 percent reductions: 1994, 1995, 1996, and 1999. In 2001, the FFWCC set the target number of spiny lobster traps at 400,000 and implemented a 4 percent annual reduction in traps. The FFWCC suspended

***** The survey of recreational fishers who harvest during the regular fishing season focuses on the first month of the season because the majority of fishing effort occurs during the first month of the season (Sharp *et al.*, 2005).

the annual trap reduction in 2003; nonetheless, the program has resulted in a significant reduction in the annual numbers of traps set. During the 2005 - 2006 season, 497,042 trap tag certificates were issued; followed by 473,943 for the 2006 - 2007 season and as of December 21, 2007, there were a total of 475,320 trap tag certificates for the 2007 - 2008 season.

No one who owns one or more lobster trap certificates can be issued a commercial dive permit (68B-24.0055(2)(b)). As of January 1, 2005, and until January 1, 2010, no new commercial dive permits will be issued and no commercial dive permit will be renewed or replaced except those that were active during the 2004 – 2006 fishing season. Existing permits may only be issued to a single saltwater products license with a valid crawfish endorsement and a valid restricted species endorsement (68B-24.005(2)(c)). Failure to renew the commercial dive permit by September 30 of each year results in forfeiture of the permit.

A crawfish endorsement or crawfish license, also known as a trap number, is required for any person to use traps to harvest spiny lobster or take spiny lobster in commercial quantities (68B-24.0055(1)). The number of Crawfish Endorsements issued has declined since the 1998 -1999 season. See Figure 5.3.6. The number of individuals holding Crawfish Endorsements has also declined. During the 2005 – 2006 season, there were 1,402 endorsement holders, followed by 1,303 for 2006 – 2007, and as of December 1, 2007, there were 1,241 endorsement holders for the 2007 – 2008 season.

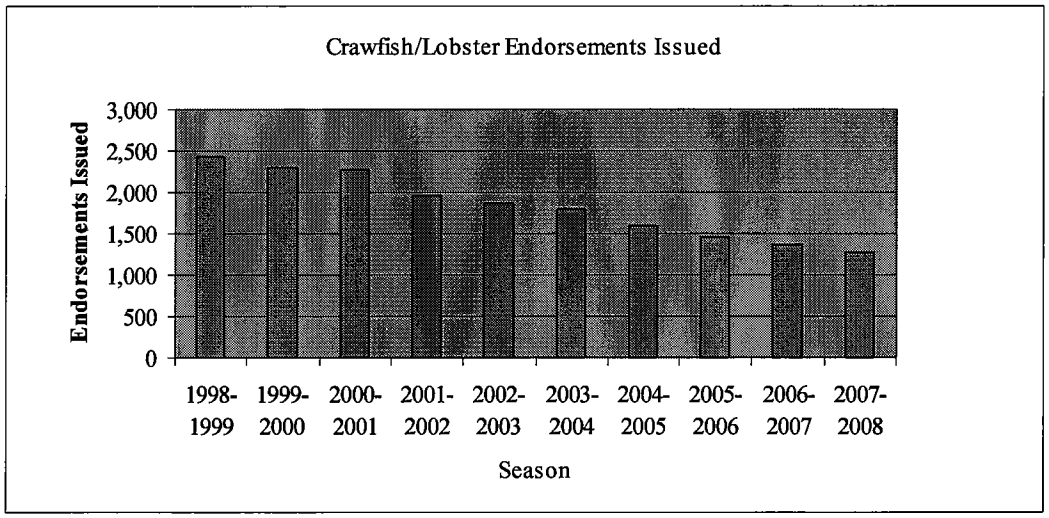


Figure 5.3.6. Number of Crawfish/Lobster Endorsements Issued. Source: Florida Fish and Wildlife Conservation Commission, Marine Fisheries Information System.

On August 5, 1994, the Special Recreational Crawfish License (SRCL) was issued after the implementation of the commercial spiny lobster trap certificate program (68B-24.0035, Florida Administrative Code). The SRCL was intended to reduce the adverse impact on recreational fishers who were commercially licensed and using traps, but were

prohibited from using lobster traps because they did not meet the qualifications that were established from the commercial lobster trap certificate program.[†††††] SRCLs are not issued to persons who did not possess a crawfish trap number (Crawfish Endorsement) and a Saltwater Products License during the 1993 – 1994 license year (68B-24.0035(2)(b), F.A.C.). No person issued a SRCL may also possess a Crawfish Endorsement. An SRCL is not valid unless the holder also possesses a valid Recreational Crawfish Permit required by Section 372.57(8)(d), Florida Statutes. Moreover, if the SRCL is not renewed every year, the holder loses the license. The SRCL applies to recreational fishers in state, not federal, waters, and does not permit harvesting lobsters during the 2-day sport season. License holders are required to file quarterly reports with the Florida Fish and Wildlife Conservation Commission detailing the amount of spiny lobster harvested in the previous quarter together with the amount harvested by other recreational harvesters aboard the license holder's vessel (68B-24.0035(2)(e), F.A.C.).

The number of SRCLs has declined since the 1998 – 1999 season. See Figure 5.3.7. Beginning with the 2012 – 2013 license year and every year thereafter, no SRCL will be issued or renewed (68B-24.0035(2)(g), F.A.C.).

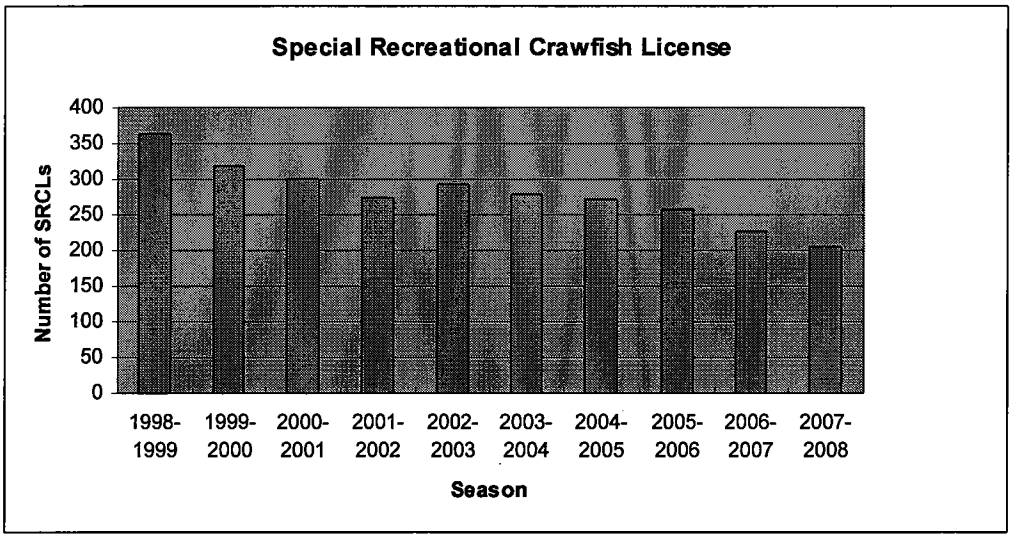


Figure 5.3.7. Number of Special Recreational Crawfish Licenses, 1998 – 1999 to 2007 – 2008 season. Source: Florida Fish and Wildlife Conservation Commission, Marine Fisheries Information System.

Currently, Florida law requires anyone who commercially harvests or sells spiny lobster to have a Saltwater Products License (SPL).[‡‡‡‡‡] An SPL may be issued in the name of

[†††††] A commercial license was/is required because traps were/are not legally acceptable gear in the recreational spiny lobster fishery.

[‡‡‡‡‡] A Saltwater Products License (SPL) is required to harvest saltwater species in excess of the recreational bag limits, with the intent to sell, or with certain gears. For species that have no established bag limit, the bag limit is 100 pounds or 2 fish per person per day or whichever is greater.

an individual or a valid vessel registration number issued in the name of the licensed applicant. The State also requires anyone who sells spiny lobster to have a Restricted Species Endorsement (RS) and Crawfish Endorsement.§§§§§

Spiny lobster harvested in Florida waters must remain in a whole condition while on or below state waters and the practice of separating the tail from the body is prohibited (68B-24.003(4)). Possession of spiny lobster tails that have been separated lobster tails on or below state waters is prohibited unless the spiny lobster is being imported pursuant to 68B-24.0045, F.A.C., or were harvested outside state waters and the separation was pursuant to a federal permit allowing such separation. If tails are separated from the body, tails must be at least 5.5 inches in length,****** otherwise, if whole, the carapace must be greater than 3 inches long (68B-24.003(1), F.A.C.).

In Florida, the harvest or possession of egg-bearing spiny lobster is prohibited and any egg-bearing lobster found in traps must be immediately returned to the water free, alive and unharmed (68B-24.007 *F.A.C.*). The practice of stripping or otherwise molesting egg-bearing spiny lobster in order to remove the eggs is prohibited and the possession of spiny lobster or spiny lobster tails from which the eggs, swimmerets or pleopods have been removed or stripped is prohibited (68B-24.007 *F.A.C.*).

Possession of undersized lobster is prohibited, except in the spiny lobster trap fishery, where fishermen use undersized lobsters to attract legally sized ones.†††††† Allowable gears are traps, hand-held net, hoop net (diameter no larger than 10 feet), bully net (diameter no larger than 3 feet), and by diving. The vessel limit for harvest with a bully net is 250 lobsters per vessel per day, for the trap fishery there is no bag or trip limit, and limits for the dive fishery are regional. Additional restrictions and requirements depend on the method of harvest.

For those in the spiny lobster trap fishery, trap certificates and tags are required for all traps. A tag must be securely attached to each trap; spiny lobster trap specifications and trap, buoy, and vessel marking requirements apply; and traps, buoys, and vessels must display the Crawfish endorsement.‡‡‡‡‡‡ Florida law authorizes FWC to retrieve traps

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§§§§§ Species designated as Restricted include African pompano, amberjack, black drum, black (striped) mullet, bluefish, blue crab, clams (Brevard County only), crawfish/lobster, cobia, Florida pompano, flounder, grouper, hogfish, king mackerel, permit, red porgy, cobia, sea bass, sheepshead, shrimp, snapper, Spanish mackerel, spotted sea trout, stone crab, triggerfish, tripletail, and tropical marine fish and plants including ornamental sponges.

****** No less than 5.5 inches not including any protruding muscle tissue.

†††††† A person aboard a vessel with a Crawfish endorsement and trap certificates may harvest and possess while on the water 50 undersized spiny lobster (shorts) and one short per trap aboard the boat. Shorts must be released alive and unharmed upon leaving trap lines.

‡‡‡‡‡‡ Traps must be constructed of wood or plastic and be no larger than 3 feet by 2 feet or the volumetric equivalent (12 cubic feet) with the entrance located on top of the trap. Each plastic trap must have a degradable panel. Traps must be baited and placed in the water beginning August 1. Traps may be worked during daylight hours only. Traps may not be placed within 100 feet of the intercoastal waterway or any

left in the water after the close of the season and fines the traps' owners to cover the costs of retrieving the traps.

All vessels used by persons commercially harvesting lobster by diving, scuba, or snorkel must display the Commercial Dive Permit on the vessel SPL. A person with a Commercial Dive Permit cannot have a trap certificate. After January 1, 2005, no diver permits were issued, renewed or replaced except those that were active in 2004-05. Dive permits that are not renewed by September 30 of each year are forfeited. A 250-lobster daily vessel limit applies in Broward, Dade, Monroe, Collier, and Lee counties and adjoining federal waters.[§§§§§§]

The commercial CSL and regular recreational CSL season starts on August 6 and ends on March 31 (68B-24.005(1). No person can harvest, attempt to harvest, or have in his possession, regardless or where taken, any spiny lobster during the closed season of April 1 through August 5 of each year, except during the 2-day sport season, for storage and distribution of lawfully possessed inventory stocks or by special permit issued by the Florida Fish and Wildlife Conservation Commission (68B-24.005(1)). During the 2-day sport season no person can harvest spiny lobster by any means other than by diving or with the use of a bully net or hoop net.

A Wholesale Dealer License is required for any person, firm or corporation that sells spiny lobster to any person, firm, or corporation except to the consumer and who may buy spiny lobster from any person pursuant to section 370.06(2) of the Florida Statutes or any licensed wholesale dealer.

Each spiny lobster imported into Florida must comply with the minimum size requirements and the prohibitions relating to eggbearing spiny lobster (68B-24.0045(3) F.A.C.). During the open season (August 6 through March 31), a person may possess wrung spiny lobster tails or possess spiny lobster in excess of the bag limit while on state waters if such person also possesses appropriate receipt(s), bill(s) of sale, or bill(s) of lading to show that the spiny lobster were purchased in a foreign country and are entering the state in international commerce (68B-24.0045(1)).

5.3.5.1.2 Florida County Ordinances

Zoning laws have indirectly affected the spiny lobster fishery in south Florida. In August 1986, Monroe County changed its zoning laws by implementing the Monroe County Land Use Plan (Plan). Under the Plan, commercial fishers must store, build, repair, and dip traps in industrial or commercially zoned areas, within areas designated as

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bridge or seawall. Traps must be removed from the water by April 5 each year. Harvest is prohibited in designated areas of John Pennekamp Coral Reef State Park.

§§§§§§ Divers must permanently and conspicuously display a 'divers down flag' placard on the vessel and affix the Commercial Dive Permit to the diagonal stripe with 10-inch numbers visible from the air and 4-inch numbers visible from the water. Harvest from artificial habitat is prohibited. Divers must possess a carapace measuring device and measure lobster in the water. The use of bleach or chemical solutions or simultaneous possession of spiny lobster and any plastic container capable of ejecting liquid is prohibited.

commercial fishing villages or in areas termed specific fishing districts (Johnson & Orbach, 1990).******* Prior to the zoning change, fishers could store and work on traps on residential property. Under Article V, Section 9.5 – 143(f) of the Monroe County Ordinances, where a nonconforming use of land or structure is discontinued or abandoned for 6 months or 1 year in the case of stored lobster traps, then such use may not be reestablished or resumed, and subsequent use must conform to provisions detailed in the chapter of the ordinances.

5.3.5.2 Puerto Rico

Puerto Rico law requires commercial lobster fishermen to have a Common Lobster Fishing Permit (12 L.P.R.A § 25e(b)(2)). Regulation 6768, Article 8(o) states no person can fish, possess, sell or offer for sale the common lobster (P. argus) with a carapace length less than 3.5 inches."

Most spiny lobster are taken by scuba diving and fish pots. See Table 5.3.9.

Table 5.3.9. Puerto Rico Commercial Lobster Fishery Gear Types. *Source*: SEDAR 2005.

Gear Type	Landings (1000s lbs)	Percent
Scuba Diving	2,110.40	43.3
Fish Pot	1,859.00	38.1
Lobster Pot	442.7	9.1
Trammel Net	162.2	3.3
Bottom Line	78.7	1.6
Spear Fishing	77.4	1.6
Skin Diving	58.3	1.2
Gill Net	52.6	1.1
Other	34	0.7

5.3.5.3 U.S. Virgin Islands

Title 12, Chapter 9A, §319(b) of the Virgin Islands Code (V.I.C.) states "No person, firm, or corporation shall take or have in his possession at any time, regardless of where taken, any spiny lobster (crawfish or crayfish) of the species Panulirus Argus unless such spiny lobster ... shall have a carapace length of more than three and one-half (3 ½) inches." According to 12 V.I.C. §319(c), lobsters must remain in a whole condition at all times while being transferred on, above or below the waters of the territory and the practice of wringing or separating the tail from the body is prohibited on the waters of the territory.

******* Traps used to be dipped in recycled oil to protect them from the marine environment. However, that practice was prohibited beginning in 1995. Now fishermen soak traps in a brine solution to extend the life of their traps.

Egg-bearing lobsters of any species shall not be taken, possessed or sold at any time, except that egg-bearing lobsters may be returned to pots and traps in which they have been captured, provided such egg-bearing lobsters are returned to such pots or traps in a live or unharmed condition, are provided with adequate food, and are immediately returned into the water (12 V.I.C. §319(c)). Such egg-bearing lobsters as are returned to pots or traps as aforementioned, shall not be taken or possessed or sold until the eggs have been naturally released into the water; provided they are of at least the minimum size forth in §319(b). The practice of stripping, shaving, scraping, clipping, or otherwise molesting egg-bearing lobsters in order to remove the eggs is prohibited (12 V.I.C. §319(e)).

It is unlawful for any person to spear, hook or otherwise impale any lobster in the process of capture. Lobsters may only be captured by hand, snare, pot or trap, so that short or egg-bearing lobsters may be released unharmed or returned to the pot or trap as permitted (12 V.I.C. §319(f)). The great majority of spiny lobster landings are taken by scuba gear and traps and lines. See Table 5.3.10.

Table 5.3.10. U.S. Virgin Islands Spiny Lobster Percent Landings by Gear Category, 1994 – 2003. *Source*: SEDAR 2005.

Gear Type	Percent Reported Landings
Scuba	61.51
Traps/Lines	33.23
Free Diving	2.24
Gillnets	1.16
Seine Nets	0.46
Scuba/Free Diving	0.31
Unknown	0.29
Line Fishing	0.24

Title 12, Chapter 9A, §324 of the V.I.C. states that no person shall sell, or represent for the purpose of sale, in any form, any seafood as local or native seafood unless the same shall have been originally caught or taken in this territory; nor shall any person so sell, or represent for the purpose of sale, in any form, any crustacean as local or native lobster unless the same is the species known as Panulirus argus; nor shall any person so sell, or represent for the purpose of sale, in any form, any meat as local or native lobster meat unless such meat is wholly from crustaceans of Panulirus argus.

5.3.6 Foreign Laws and International Agreements

On August 1, 1975, the Commonwealth of The Bahamas enacted a law that declared spiny lobster a creature of its Continental Shelf, which is similar to the U.S. law (16

U.S.C. 1857(2)(B)) that considers American lobster a part of our Continental Shelf (Vanderbilt Television News Archive, September 11, 1975). Consequently, Bahamian territorial waters were closed to U.S. spiny lobster fishers on and after that date. The closure had a dramatic impact on landings of spiny lobster in the southeast: pounds landed in 1975 were 32 percent less than the previous year's landings, and pounds landed in 1976 were 28 percent less than 1975 landings.[†††††††] In Florida, pounds landed on the east coast in 1975 were 44 percent less than pounds landed in 1974, and pounds landed in 1976 were about 57 percent less than pounds landed in 1975.[‡‡‡‡‡‡‡] Pounds of spiny lobster landed on the west coast declined from approximately 6.7 million in 1974 to about 4.4 million in 1976. East coast Florida fishers have landed less spiny lobster annually since the closure of Bahamian waters in 1975; however, landings on the west coast of the state have exceeded those landed in 1974, before the closure, for four years. To mitigate the losses caused by the closure of Bahamian waters, domestic fishers began to increase the number of traps after 1975 (Shivlani & Milon, 2000).

In 1972, the Treaty between the Government of the United States of America and the Government of the Republic of Columbia Concerning the Status of Quita Sueño, Roncador and Serrana was signed, which allowed U.S. fishing vessels to operate in Columbian waters. As a result of that treaty, U.S. vessels fishing in Columbian Treaty Waters are prohibited from possessing Caribbean spiny lobster smaller than 5.5 inches (19.97 cm) tail length (50 *CFR* § 300.126(m)). Also, a berried (egg-bearing) spiny lobster caught in treaty waters cannot be retained on board, and a berried lobster may not be stripped, scraped, shaved, clipped or in any manner molested to remove the eggs (50 *CFR* §300.132).

In an international fishery like that of spiny lobster, "consensus" on addressing concerns is important, as are U.S. efforts to engage other countries in negotiations/agreements. FAO/WECAFC has organized five workshops on spiny lobster in cooperation with most regional agencies and institutions, dealing with various projects: Belize City, Belize (1997); Merida, Mexico (1998, 2000, and 2006); and Havana, Cuba (2002). A representative from the Caribbean Council attended all the workshops. A staff member of NOAA Fisheries Service's Southeast Region attended the 2006 workshop in Merida.

The participating countries of the September 2006 workshop of the Working Group on Caribbean spiny lobster of the WECAFC agreed that there were management problems across the region, which included growth of fishing effort; weak enforcement and compliance; illegal, unreported and unregulated fishing; increasing use of artificial habitats (casitas); conflicts between trap fishers and dive fishers; open access fisheries; and reports that in some Central American countries of leaving lobster traps in the water

[†††††††] According to Labisky et al. (1980), less than half of the spiny lobster landed was harvested in domestic waters and most of the foreign catch was taken from Bahamian waters. Noetzel & Wojnowski report that in 1973, about one-fifth of landings on Florida's west coast came from spiny lobsters that were harvested in Caribbean waters off the coasts of Nicaragua and Honduras (1975, p. 25). According to Williams (1975), the closing of Bahamian waters to U.S. spiny lobster fishers represented a loss of approximately 90 percent of foreign water landings.

[‡‡‡‡‡‡‡] On the east coast of Florida, 4,147,200 pounds were landed in 1974; 2,319,300 pounds were landed in 1975; and 987,300 pounds were landed in 1976.

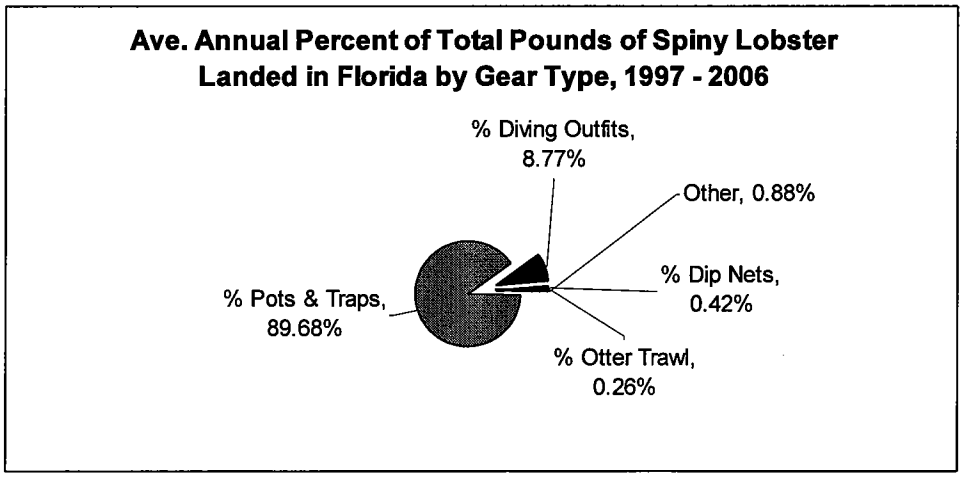
during the countries' closed seasons. The countries also agreed that countries that did not have a minimum harvest-size in their regulations that is equal to or greater than 74 millimeters carapace-length should make efforts to do so (WECAFC 2007, p. 3).

The WECAFC member countries who attended the Merida Workshop in 2007 agreed. According to the United Nations' Food and Agricultural Organization (FAO), Belize, Bermuda, Columbia, Guyana, and Jamaica did not have minimum size-regulations as of December 31, 2007.

5.3.7 Florida Commercial and Recreational Harvest

Caribbean spiny lobsters are harvested by both commercial and recreational fishermen. Florida law allows commercial fishermen to harvest spiny lobster by diving or using wooden, plastic or metal traps, or bully or hoop nets (68B-24.006(1)); however, wooden traps are the most popular gear type.[§§§§§§§] These traps are weighted with cement and include a self-deteriorating escape panel that degrades over time. Fishermen commonly string traps along a trap line, with each end of the trap line marked by a buoy. All traps must be removed by April 5 of each year (68B-24.005(4) F.A.C.). Strong coastal storms can damage and destroy the traps.

The predominant gear type used to catch spiny lobster in Florida is a pots or trap. From 1997 through 2006, about 90 percent of annual total state landings have been caught in pots and traps. See Figure 5.3.8. Diving is the second most popular gear type and takes about 9 percent of the total pounds landed annually.



§§§§§§§ A bully net used to directly harvest spiny lobster can not have a diameter greater than 3 feet and similarly, a hoop net can not have a diameter larger than 10 feet (68B-24.007(5)). Spiny lobster taken by the use of any non-hand-held net or trawl as incidental bycatch of legally harvested targeted species is allowed if the combined whole weight of all spiny lobster does not exceed 5 percent of the total whole weight of all species legally possessed at the time.

Figure 5.3.8. Average Annual Percent of Total Pounds of Spiny Lobster Landed in Florida by Gear Type, 1997 – 2006. *Source*: National Marine Fisheries Service, Accumulated Landings System.

Commercial fishermen use live undersized CSL, commonly known as "shorts", instead of cowhide or fish heads as bait to attract CSL into their traps. Florida law allows the holder of a valid Crawfish Endorsement, lobster trap certificates, and valid saltwater products license to harvest and possess, while on the water, undersized spiny lobster not exceeding 50 per boat and 1 per trap aboard each boat is used exclusively for luring, decoying, or otherwise attracting noncaptive spiny lobster into traps. Such undersized spiny lobster must be kept alive while in possession, in a shaded continuously circulating live well with a pump capacity to totally replace the water at least every 8 minutes and large enough to provide at least 0.75 gallon of seawater per lobster (68B-24.003(3) F.A.C.).

Usually each season's landings peak in August then sharply decrease thereafter. See Figure 5.3.9. Effort and landings also decrease after the opening of the stone crab claw fishery on October 5 (FWRI 2007).******** See Figure 5.3.10.

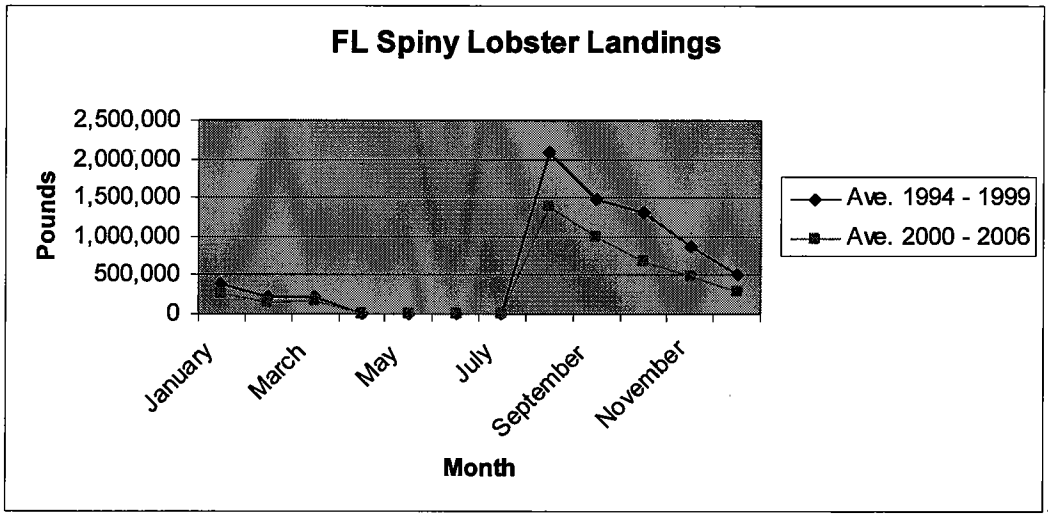


Figure 5.3.9. Florida Landings of Spiny Lobster, 1994 – 2006. *Source*: Florida Fish and Wildlife Conservation Commission, Marine Fisheries Information System.

******** Stone crab was originally a bycatch caught in spiny lobster traps; however, in the 1970s, it because a fishery. Today, many spiny lobster fishermen are also stone crab fishermen as well.

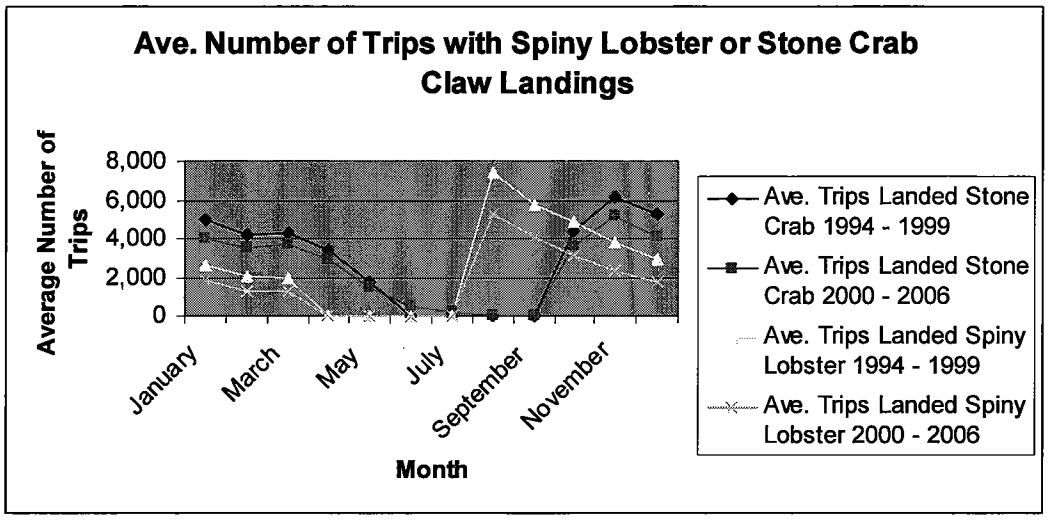


Figure 5.3.10. Average Number of Monthly Trips that Landed Either Spiny Lobster or Stone Crab Claws, 1994 – 1999 and 2000 – 2006. *Source*: Florida Fish and Wildlife Conservation Commission, Marine Fisheries Information System.

During the 2-day sport season, no person can harvest spiny lobster by any means other than by diving or using a bully net or hoop net (68B-24.005 F.A.C.)).
Bully and hoop nets and diving (breath-hold, scuba, or hookah) are the only legal recreational fishing methods (Recreational fishermen primarily dive to harvest the species; however, they also use bully nets and hoop nets). A bully net is a circular frame attached at right angles to the end of a pole and that supports a conical bag of webbing. The webbing is usually held up by means of a cord, which is released when the net is dropped over a lobster. A hoop net is a frame, circular or otherwise, that supports a shallow bag of webbing and is suspended by a line and bridles. The net is baited and lowered to the ocean bottom, to be raised rapidly at a later time to prevent the escape of the lobster.

It is estimated that the numbers of lobsters landed by recreational fishers represent an average of 23 percent of the total annual recreational and commercial numbers landed from the 1978-79 through 2003-04 fishing seasons. See Table 5.3.11.

Table 5.3.11. Florida Landings of Caribbean Spiny lobster, 1978-79 through 2003-2004 Fishing Seasons. *Source*: Florida Fish & Wildlife Conservation Commission.

Fishing Season	Rec. Landings	Com. Landings	Bait Landings	Total Landings	% Rec	% Comm	% Bait
1978-79	1,032,818	4,712,160	1,489,053	7,234,031	14.28%	65.14%	20.58%
1979-80	1,332,146	6,384,958	1,766,902	9,484,006	14.05%	67.32%	18.63%
1980-81	1,653,054	5,074,434	1,450,653	8,178,141	20.21%	62.05%	17.74%
1981-82	1,438,200	4,673,563	1,389,579	7,501,342	19.17%	62.30%	18.52%
1982-83	1,487,598	5,192,189	1,440,506	8,120,293	18.32%	63.94%	17.74%
1983-84	1,114,641	3,516,013	1,205,460	5,836,114	19.10%	60.25%	20.66%
1984-85	1,218,015	5,077,610	1,458,513	7,754,138	15.71%	65.48%	18.81%
1985-86	1,176,734	4,586,067	932,611	6,695,412	17.58%	68.50%	13.93%

1986-87	1,098,768	3,955,795	1,321,591	6,376,154	17.23%	62.04%	20.73%
1987-88	1,305,427	4,657,778	521,939	6,485,144	20.13%	71.82%	8.05%
1988-89	1,743,948	6,381,104	499,015	8,624,067	20.22%	73.99%	5.79%
1989-90	1,718,020	6,650,042	587,191	8,955,253	19.18%	74.26%	6.56%
1990-91	1,496,810	5,154,258	1,061,504	7,712,572	19.41%	66.83%	13.76%
1991-92	1,990,623	5,784,865	662,668	8,438,156	23.59%	68.56%	7.85%
1992-93	1,242,648	4,567,343	565,406	6,375,397	19.49%	71.64%	8.87%
1993-94	1,787,054	4,662,274	422,617	6,871,945	26.01%	67.85%	6.15%
1994-95	1,751,298	6,229,495	492,439	8,473,232	20.67%	73.52%	5.81%
1995-96	1,673,330	5,666,412	513,035	7,852,777	21.31%	72.16%	6.53%
1996-97	1,778,889	6,646,664	583,692	9,009,245	19.75%	73.78%	6.48%
1997-98	2,186,058	6,796,320	621,140	9,603,518	22.76%	70.77%	6.47%
1998-99	1,185,036	4,522,375	275,976	5,983,387	19.81%	75.58%	4.61%
1999-00	2,292,304	6,581,944	498,148	9,372,396	24.46%	70.23%	5.32%
2000-01	1,848,447	4,469,964	423,038	6,741,449	27.42%	66.31%	6.28%
2001-02	1,091,022	2,307,262	323,096	3,721,380	29.32%	62.00%	8.68%
2002-03	1,223,197	3,818,081	347,857	5,389,135	22.70%	70.85%	6.45%
2003-04	1,142,960	3,419,929	329,668	4,892,557	23.36%	69.90%	6.74%

The Florida Department of Environmental Protection (FDEP) has conducted annual mail surveys of recreational lobster fishers for the two-day sport season and the first month of the regular season since 1991 in order to estimate recreational lobster harvest and fisher participation (FDEP, 1996). Since 1985, recreational fishers have taken an average of approximately 1.5 million spiny lobsters annually through Labor Day. Statewide recreational landings for the most recent available survey that was conducted in 2006 were estimated to be 947,353 pounds (FWRI 2007). That estimate was 36 percent lower than the average landings in the previous available five years, from 2000 through 2004, and was 37 percent lower than the available historic average landings from 1992 through 2006.

5.3.8 Florida Counties with Commercial Landings of Spiny Lobster

5.3.8.1 Introduction

Seven counties account for about 99.5 percent of Florida's annual commercial landings of Caribbean spiny lobster, with Monroe County dominating by taking about 90 percent of the landings year after year. See Table 5.3.12. Both Monroe and Dade (Miami-Dade) Counties combined account for about 96 percent of the state's annual commercial landings. According to the FWRI (2007), most of the lobsters landed outside Monroe and Dade Counties from 1992 though 2006 were caught in the Keys and sold to wholesale dealers operating in Palm Beach County.

Table 5.3.12. Top 7 Counties in Commercial Landings of Caribbean Spiny Lobster, 1994 – 2006. Source: FL Fish and Wildlife Conservation Commission, Marine Fisheries Information System.

County	Ave. Annual CSL Landings	Portion of Ave. Annual FL CSL Landings	Combined Portions of FL Landings
Monroe	5,070,122	89.658%	89.6584%
Dade	366,385	6.479%	96.1375%
Palm Beach	69,507	1.229%	97.3666%
Broward	46,460	0.822%	98.1882%
Collier	34,981	0.619%	98.8068%
Brevard	20,837	0.368%	99.1753%
Duval	17,067	0.302%	99.4771%

The number of lobster/crawfish licenses has been in decline in Florida since fiscal year 1998-1999.††††††† See Figure 5.3.11.

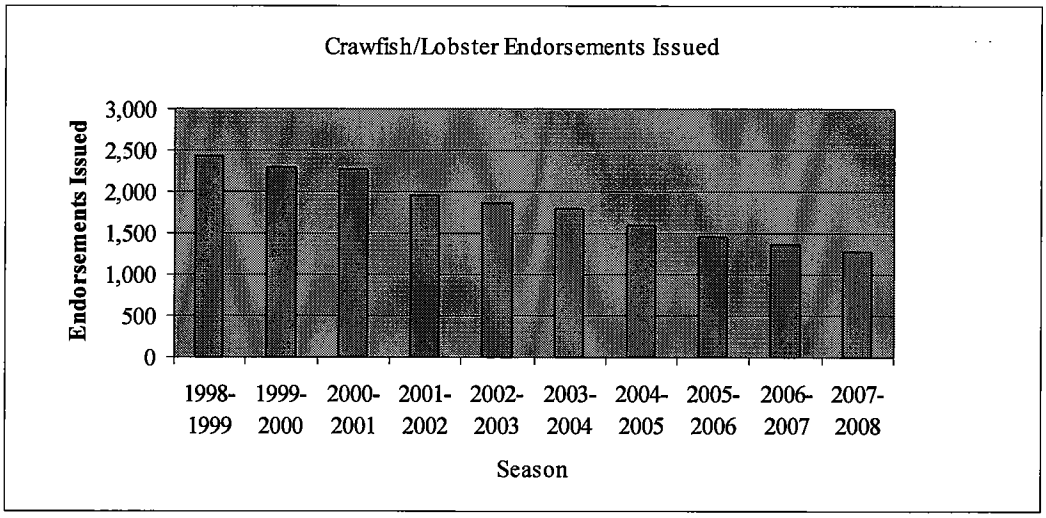


Figure 5.3.11. Florida Lobster/Crawfish License Endorsements Issued. Source: Florida Fish & Wildlife Commission.

5.3.8.2 Monroe County

Monroe County leads the state in landings of Caribbean spiny lobster year after year. From 1994 through 2006 Monroe County led the state in commercial landings of Caribbean spiny lobster, averaging about 90 percent of the state's commercial landings year each year. See Table 5.3.13.

††††††† The fiscal year is from July 30 to June 1.

Table 5.3.13. Monroe County Commercial Landings of Caribbean Spiny Lobster. *Source*: FL Fish and Wildlife Conservation Commission, Marine Fisheries Information System.

Year	County CSL Landings (lbs)	FL CSL Landings (lbs)	Portion of FL Landings
1994	6,239,090	7,087,357	88.03%
1995	6,245,472	7,001,661	89.20%
1996	7,138,859	7,865,678	90.76%
1997	6,461,282	7,107,684	90.91%
1998	5,268,000	5,831,407	90.34%
1999	6,794,915	7,578,321	89.66%
2000	5,114,237	5,763,470	88.74%
2001	2,904,035	3,405,509	85.27%
2002	4,035,905	4,483,426	90.02%
2003	3,855,401	4,268,277	90.33%
2004	4,500,913	4,983,400	90.32%
2005	3,026,574	3,365,221	89.94%
2006	4,326,907	4,755,048	91.00%
Average	*5,070,122.31*	*5,653,573.77*	*89.58%*

Over 78 percent of the state's trap-tag certificates are held by individuals in Monroe County. See Table 5.3.14.

Table 5.3.14. Monroe County Trap Tag Certificates and Endorsement Figures, as of December 31, 2007. *Source*: FL Fish and Wildlife Commission.

2006			
	County	State	% State
Endorcement Holders	695	1,402	49.57%
Endorcement Accounts	403	615	65.53%
Endorcements Issued	826	1,638	50.43%
Revenue Collected	$94,300	$182,050	51.80%
Trap Tag Certificates	380,237	485,709	78.28%

2007			
	County	State	% State
Endorcement Holders	632	1,303	48.50%
Endorcement Accounts	365	582	62.71%
Endorcements Issued	751	1,512	49.67%
Revenue Collected	$85,575	$167,700	51.03%
Trap Tag Certificates	369,780	473,943	78.02%

2008			
	County	State	% State
Endorcement Holders	623	1,241	50.20%
Endorcement Accounts	353	550	64.18%
Endorcements Issued	739	1,443	51.21%
Revenue Collected	$84,200	$160,200	52.56%
Trap Tag Certificates	371,780	475,320	78.22%

The number of crawfish/lobster license holders has declined steadily since the 1998-99 season, and the 651 license holders for the 2006-07 season represents a 43 percent decline since the 1998-99 season. See Table 5.3.15.

Table 5.3.15. Monroe County Crawfish/Lobster License Holders. *Source*: FL Fish and Wildlife Commission.

Monroe County	
Season	License Holders
1998 - 1999	1,137
1999 - 2000	1,091
2000 - 2001	1,056
2001 - 2002	923
2002 - 2003	883
2003 - 2004	850
2004 - 2005	783
2005 - 2006	703
2006 - 2007	651
2007 - 2008	640

Wholesale seafood dealers in the county have not similarly declined. See Table 5.3.16.

Table 5.3.16 Monroe County Wholesale Seafood Dealers. *Source*: FL Fish and Wildlife Commission.

Season	Wholesale Dealers
1998 - 1999	104
1999 - 2000	110
2000 - 2001	107
2001 - 2002	107
2002 - 2003	110
2003 - 2004	117
2004 - 2005	116
2005 - 2006	116
2006 - 2007	105
2007 - 2008	106

The recreational spiny lobster fishery is very important to the County as well. In 2003, recreational landings of Caribbean spiny lobster were about 1.1 million pounds, and sales of recreational lobster fishing permits exceed 100,000 annually. Sharp *et al.* (2005) estimate approximately $24 million was spent on recreational lobster fishing in the Florida Keys from the opening of the recreational season through the first Monday in September in 2001. Recreational fishers who resided outside the Keys accounted for about $22 million (92 percent) of that $24 million spent on recreational lobster fishing in the Keys. In addition to the regular recreational season there is the Special Two-Day Sport Season, which occurs on the last consecutive Wednesday and Thursday in July. Those two days are the busiest boating days of the year in the County. From the 1993

through 2001 Special Two-Day Sport Seasons, the average annual number of spiny lobsters caught in Monroe County represented about 66 percent of the annual statewide total. The number of special recreational crawfish (spiny lobster) permits has increased since the 1998 – 1999 season.

Monroe County is the southernmost county in Florida and the United States. See Figure 5.3.11. It has a total area of 9,679 km^2 (3,737 square miles), with 2,582 km^2 being land and the remaining 7,097 km^2 (about 73 percent) being water (U.S. Census Bureau). See Figure 2-6. The County is made up of the Florida Keys and portions of Big Cypress National Preserve and Everglades National Park. The Florida Keys are a series of islands that extend over 220 miles in length and make up the third largest barrier reef ecosystem in the world and the only one of its kind in the country. The State of Florida has designated the Florida Keys as an Area of Critical State Concern to protect the area's ecologically richness, culturally significance, and environmentally sensitive nature (Florida Statute 1986; Florida Administrative Code §28-29, 1975). Over 60 percent of the Keys land mass is owned by the government and the vast majority of public land has been set aside for conservation. The County has only one highway, U.S. Highway 1, which is also called the Overseas Highway. Commercial activities and residential development are mostly concentrated along that route (National Research Council, 2002). Among the County's cities are Key West, Key Largo, Big Pine Key, Marathon and Plantation Key.

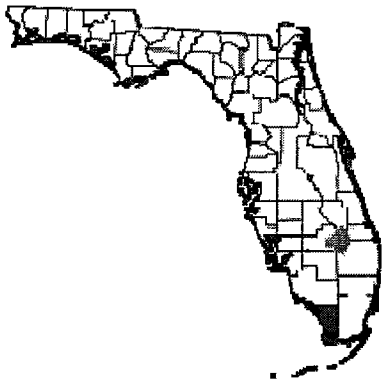


Figure 5.3.12. Monroe County. *Image Source*: Wikipedia.

More than 99.9 percent of the County's population lives on the Florida Keys. According to U.S. Census Bureau estimates, the population of the County fell 6.1 percent from April 1, 2000 to July 1, 2006, with approximately 74,737 people in 2006. During that period, there was a natural increase in population of 195 (4,642 births less 4,447 deaths) coupled with a net out-migration of 4,668 persons leaving the county (2,612 net international migration less 7,280 net internal out-migration). The number of housing units increased from 51,617 in 2000 to 52,911 in 2005, an increase of 2.5 percent. Median household income in 2004 was $42,195 and 9.2 percent of the persons in the county lived below poverty, in comparison to the statewide median household income of $40,900 and poverty rate of 11.9 percent.

Tourism is the largest sector in the county. There are more establishments in the Retail Trade (NAICS 44) and Accommodation & Food Services (NAICS 72) sectors than any other sectors, and these two sectors employ the most persons. In 2005, 35 percent of the county's employees were in Accommodation & Food Services and 21 percent in Retail Trade. See Table 5.3.17. Of the employer establishments in the Accommodation (NAICS 721) subsector, 164 (or 91) percent were in Traveler Accommodation (NAICS 7211) and 14 (or 8 percent) were in RV Parks & Recreational Camps (NAICS 7212). Similarly, of the nonemployer firms in the Accommodation subsector, 83 (or 87 percent) were in Traveler Accommodation and 4 (or 4 percent) were in RV Parks & Recreational Camps.

Table 5.3.16. 2005 Nonemployer and Employer Business Statistics, Monroe County. *Source*: U.S. Census, 2005 County Business Patterns and Nonemployer Statistics.

NAICS Code	Industry Code Description	Non-Employer Firms	Non-Employer Receipts ($1,000)	Employer Establish-ments	No. of Employees	Annual Payroll ($1,000)
11	Forestry, fishing, hunting & ag. support	992	34,476	16	20 - 99	*
21	Mining	5	160	1	0 - 19	*
22	Utilities	9	1,254	2	100 - 249	*
23	Construction	1,177	82,123	359	1,693	55,733
31	Manufac-turing	107	5,337	80	338	9,652
42	Wholesale trade	136	15,495	112	480	18,964
44	Retail trade	601	44,847	723	6,422	145,298
48	Trans. & warehousing	393	19,220	141	942	25,076
51	Information	91	3,781	53	504	21,220
52	Finance & insurance	301	28,942	152	953	38,252
53	Real estate & rental & leasing	1,766	154,010	355	1,031	30,557
54	Professional, sci. & tech. services	1,219	68,691	334	1,320	51,592
55	Management of comps. & enterprises	0	0	6	91	5,136

56	Admin, support, waste mgt, remediation services	895	33,503	192	796	21,627
61	Ed. services	104	2,520	33	222	6,860
62	Health care & social assistance	421	21,970	214	2,373	97,625
71	Arts, entertain-ment & recreation	866	41,944	135	1,103	24,086
72	Accommoda-tion & food services	255	41,226	523	10,852	210,466
81	Other services (except public adm.)	1,362	43,583	308	1,331	29,204
99	Unclassified establish-ments	0	0	7	0 - 19	*
	TOTAL	10,700	643,082	3,746	30,631	
* : Stated as zero in 2005 County Business Patterns.						

The Monroe County Tourist Development Council estimates more than 3.49 million people visited the County in 2003 and 3.2 million visited the Florida Keys in 2006. Of visitors surveyed from March 2005 through February 2006, 80 percent were in the Florida Keys for recreation or vacation purposes. Of those surveyed, about 84 percent reported beach activities, 75 percent viewing wildlife, 57 percent diving and snorkeling, and 30 percent fishing as activities they participated in during their visit (Monroe County Tourist Development Council, Visitor Profile Survey). See Table 5.3.17.

Table 5.3.17. Recreational Activities of Florida Keys Visitors, March 2005 – February 2006. *Source*: Monroe County Tourist Development Council, Visitor Profile Survey.

Recreational Activity	Frequency	Percent of Responses	Percent of Cases
Diving	548	3.2	18
Snorkeling	1,171	6.8	38.6
Fishing	913	5.3	30.1
Viewing Wildlife	2,260	13.1	74.5
Boating	1,390	8.1	45.8
Beach Activities	2,547	14.8	83.9
Dine Out/Night Life	2,879	16.7	94.9
Museums/Historic Areas	1,659	9.6	54.7
Sightseeing & Attractions	2,727	15.8	89.9
Cultural Events	1,170	6.8	38.5
Total	17,264	100	

In 2002, there were 42 business establishments in the Charter-Fishing and Party-Fishing-Boats subsector (NAICS 4872102) with total annual revenue of about $5.5 million and 73 employees (U.S. Census, 2002 Transportation and Warehousing Subject Series). That same year there were 23 establishments in the Excursion-and Sightseeing-Boats subsector (NAICS 4872101) with total annual revenue of $17.3 million and 224 employees.

Leeworthy and Wiley (2002) estimate for the time period of June 2000 through May 2001, the general visitor population spent over 12.1 million person days in Monroe County.
Over 80 percent of those who visit the Keys arrive by automobile. From March 2005 to February 2006, 82 percent of those who visited the Keys arrived by automobile, 16 percent by air, and 2 percent by other means (Monroe County Tourist Development Council, Visitor Profile Survey). The Port of Key West is a small port; however, it serves cruise ships with itineraries in the Eastern and Western Caribbean and the Bahamas. The Key West Chamber of Commerce estimates 881,183 cruise passenger arrivals in the Port of Key West in 2006, up from 656,866 in 2000 (**www.keywestchamber.org/cominfo/trends.pdf**). In 2006, imports with a value of $36,283 and exports with a value of $11.7 million transited through the Port of Key West. There are two commercial airports in the Florida Keys: Key West International Airport and Florida Keys Marathon Airport. Key West International Airport had 276,154 arrivals in 2006, up from 275,386 in 2000 and remains the Keys primary airport for commercial activity. At present, only one commercial carrier, Delta Airlines, serves the Marathon Airport, and on July 13, 2007, the airline announced that it was suspending flights to the airport.

Fishing is another sector that is important to the Monroe County economy. In 2005, there were 971 nonemployer firms with annual receipts of $34.5 million in the fishing sector (NAICS 1141), which represent 9.1 percent of all nonemployer firms and 5.4 percent of annual receipts for all nonemployer firms in the County that year.

5.3.8.3 Dade (Miami-Dade) County

Dade County ranks second in the state in commercial landings of Caribbean spiny lobster, averaging over 6 percent of Florida's annual landings, and the two counties combined produce 96 percent of the state's commercial landings. See Table 5.3.18. Over 15 percent of FL trap-tag certificates are held by individuals in Dade County. See Table 5.3.19.

Table 5.3.18. Dade County Landings of Caribbean Spiny Lobster, 1994 – 2006. Source: FL Fish and Wildlife Conservation Commission, Marine Fisheries Information System.

Year	County CSL Landings (lbs)	FL CSL Landings (lbs)	County Portion of FL Landings
1994	611,769	7,087,357	8.63%

1995	511,983	7,001,661	7.31%
1996	456,166	7,865,678	5.80%
1997	429,838	7,107,684	6.05%
1998	377,816	5,831,407	6.48%
1999	512,157	7,578,321	6.76%
2000	328,144	5,763,470	5.69%
2001	215,947	3,405,509	6.34%
2002	242,047	4,483,426	5.40%
2003	273,557	4,268,277	6.41%
2004	329,370	4,983,400	6.61%
2005	197,510	3,365,221	5.87%
2006	276,701	4,755,048	5.82%
Average	*366,385.00*	*5,653,573.77*	*6.40%*

Table 5.3.19. Dade County Trap Tag Certificates and Endorcements, 2006 – 2008.

2006			
	County	State	% State
Endorcement Holders	217	1,402	15.48%
Endorcement Accounts	112	615	18.21%
Endorcements Issued	255	1,638	15.57%
Revenue Collected	$28,850	$182,050	15.85%
Trap Tag Certificates	71,087	485,709	14.64%

2007			
	County	State	% State
Endorcement Holders	219	1,303	16.81%
Endorcement Accounts	118	582	20.27%
Endorcements Issued	253	1,512	16.73%
Revenue Collected	$28,500	$167,700	16.99%
Trap Tag Certificates	74,166	473,943	15.65%

2008			
	County	State	% State
Endorcement Holders	207	1,241	16.68%
Endorcement Accounts	105	550	19.09%
Endorcements Issued	246	1,443	17.05%
Revenue Collected	$27,525	$160,200	17.18%
Trap Tag Certificates	78,472	475,320	16.51%

Dade County has a total area of 6,297 km^2 (2,431 square miles), with 5,040 km^2 being land and the remaining 1,257 km^2 (about 20 percent) being water (U.S. Census Bureau). Most of the area of water is Biscayne Bay, and another significant portion is adjacent waters of the Atlantic Ocean. Among its cities are Miami, Miami Beach, Coral Gables, and Key Biscayne. See Figure 5.3.11.

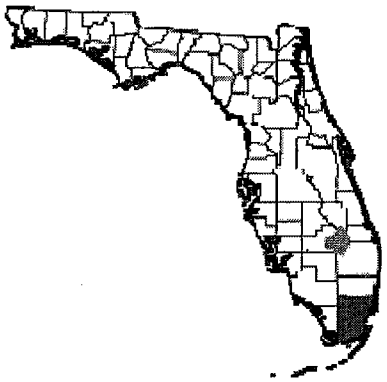


Figure 5.3.11. Dade County. *Image Source*: Wikipedia.

Dade County is the most populous county in Florida and the 8th most populous county in the nation. According to U.S. Census Bureau estimates, the population of the County grew 6.6 percent from April 1, 2000 to July 1, 2006, with approximately 2.4 million people in 2006. During that same period, the natural increase in population was 87,668 (204,079 births less 116,411 deaths) and net migration was 66,896 (257,492 net international migration less the 190,596 net internal out-migration). The number of housing units also increased from 852,414 in 2000 to 928,715 in 2005, an increase of about 9 percent. Median household income in 2004 was $34,682 and 17.1 percent of the persons in the county lived below poverty, in comparison to the statewide median household income of $40,900 and poverty rate of 11.9 percent.

Tourism is an important sector to the County economy and is the largest sector of Miami's economy. According to the Greater Miami Convention and Visitors Bureau, in 2007, 12 million overnight visitors spent $17.1 billion, an increase of $1.7 billion since 2005. Overnight visitors generated an economic impact of $13.9 billion. The Dante B. Fascell Port of Miami-Dade ranks as the world's busiest cruise/passenger port in the world. In 2006, over 3.7 million cruise passengers passed through and over 9 million tons of cargo transited through the port (Port of Miami). The combination of cruise and cargo activity supports about 98,000 jobs and generates an economic impact of $12 billion. Miami International Airport (MIA) handled 32.5 million passengers in 2006 (MIA website). Among U.S. airports, MIA ranks first in international freight, third in international passengers, and fourth in total freight.

In 2005, the County had 381 employer establishments in the industry subsector Traveler Accommodation (NAICS 7211) with 25,226 employees; 12 employer establishments in RV (Recreational Vehicle) Parks and Recreational Camps with 39 employees (U.S. Census Bureau, 2005 County Business Patterns). That same year there were 290 non-employer firms in Traveler Accommodation with annual sales of about $27.7 million and 14 non-employer firms in RV Parks & Recreational Parks with annual sales of $284,000 in the County (U.S. Census, 2005 Nonemployer Statistics). See Table 18. The largest sector by number of employees is Retail Trade (NAICS 44), which is followed by Health Care & Social Assistance (NAICS 62), Administrative and Support and Waste Management and Remediative Services (NAICS 56), Professional, Scientific & Technical Services (NAICS 54), and so on. See Table 5.3.20. Among nonemployers, the largest sector is Real Estate and Rental and Leasing (NAICS 53), which is followed by Professional, Scientific & Technical Services, Other Services (Except Public Administration), Construction, and so forth. See Table 5.3.21.

Table 5.3.20. 2005 Nonemployer and Employer Construction Statistics, Dade County. *Source*: U.S. Census Bureau, 2005 County Business Patterns and Nonemployer Statistics.

Industry Code	Industry Code Description	Non-Employer Firms	Non-Employer Receipts ($1,000)	Employer Establish-ments	No. of Employees
23	Construction	30,690	1,165,256	4,618	38,417
236	Construction of buildings	5,622	290,129	1,317	10,422
2361	Residential construction	4,601	240,578	1,054	6,278
2362	Nonresiden-tial construc.	1,021	49,551	263	4,124
237	Heavy and civil engineering construction	630	28,338	374	4,800
2371	Utility system construction	121	3,664	65	974
2372	Land subdivision	92	9,868	223	1,017
2373	Highway, street, and bridge construction	85	2,879	58	2,452
2379	Other heavy and civil engineering construction	332	11,927	28	357
23799	Other heavy and civil engineering construction	332	11,927	28	357
238	Specialty trade contractors	24,438	846,789	2,927	23,195

Table 5.3.21. 2005 Nonemployer and Employer Business Statistics, Miami-Dade County. *Source*: U.S. Census, 2005 County Business Patterns and Nonemployer Statistics.

NAICS Code	Industry Code Description	Non-Employer Firms	Non-Employer Receipts ($1,000)	Employer Establish-ments	No. of Employees	Annual Payroll ($1,000)
11	Forestry, fishing, hunting & ag. support	1,015	38,961	35	500 - 999	
21	Mining	38	2,187	29	1,073	62,003
22	Utilities	274	3,944	29	2,500 - 4,999	
23	Construction	30,690	1,165,256	4,618	38,417	1,482,470
31	Manufac-turing	3,669	212,073	2,378	46,621	1,561,117
42	Wholesale trade	7,658	814,973	8,514	67,342	2,884,026
44	Retail trade	16,420	765,506	10,335	118,182	2,870,980
48	Trans. & warehousing	23,596	1,000,767	2,725	51,193	1,936,735
51	Information	3,457	152,330	1,444	21,956	1,283,285
52	Finance & insurance	9,005	561,580	4,728	47,057	2,889,919
53	Real estate & rental & leasing	33,897	2,666,341	4,950	23,462	1,055,582
54	Professional, scientific & tech. serv.	31,153	1,381,648	11,047	60,355	3,488,485
55	Management of comps. & enterprises	0	0	291	17,005	1,311,656
56	Admin, support, waste mgt, remediation services	29,597	550,415	3,489	76,326	2,301,355
61	Ed. services	3,719	63,432	727	28,162	1,019,920
62	Health care & social assistance	26,415	905,533	7,715	114,198	4,439,517
71	Arts, entertain-ment & recreation	8,962	280,307	971	12,553	378,867
72	Accommoda-tion & food services	3,906	208,302	4,188	89,680	1,506,700
81	Other services (except public adm.)	62,985	1,270,636	5,895	38,989	884,694
99	Unclassified establish-ments	0	0	158	100 - 249	

	TOTAL	296,456	12,044,191	74,266	858,080
*:	Zero in 2005 County Business Patterns				

5.3.8.4. Palm Beach County

Palm Beach County ranks third in the state's commercial landings of Caribbean spiny lobster, averaging over 1 percent of FL's landings. See Table 5.3.22.

Table 5.3.22. Palm Beach County Commercial Landings of Caribbean Spiny Lobster, 1994 – 2006. *Source*: FL Fish and Wildlife Conservation Commission, Marine Fisheries Information System.

Year	County CSL Landings (lbs)	FL CSL Landings (lbs)	County Portion of FL Landings
1994	73,037	7,087,357	1.03%
1995	72,546	7,001,661	1.04%
1996	77,906	7,865,678	0.99%
1997	61,941	7,107,684	0.87%
1998	66,251	5,831,407	1.14%
1999	94,843	7,578,321	1.25%
2000	115,767	5,763,470	2.01%
2001	64,776	3,405,509	1.90%
2002	51,519	4,483,426	1.15%
2003	51,009	4,268,277	1.20%
2004	56,652	4,983,400	1.14%
2005	54,297	3,365,221	1.61%
2006	63,052	4,755,048	1.33%
Average	*69,507.38*	*5,653,573.77*	*1.28%*

Palm Beach County is the largest county in the state by size with a total area of 6,181 km^2 (2,386 squared miles), with 5,113 km^2 being land and the remaining 1,068 km^2 (about 17.3 percent) being water, much of which is in the Atlantic Ocean and Lake Okeechobee (U.S. Census Bureau). It has 47 miles of coastline. See Figure 5.3.12.

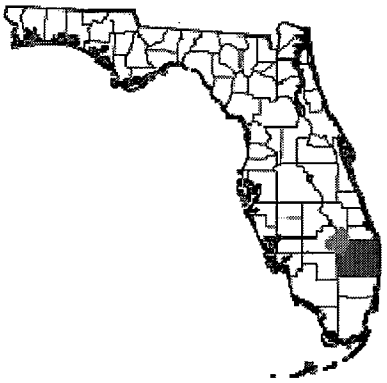


Figure 5.3.12. Palm Beach County, Florida. *Image Source*: Wikipedia.

The U.S. Census Bureau estimates the population of Palm Beach County grew over 12 percent from 2000 to 2005, with approximately 1.27 million people in 2005. The County's population growth has been dominated by in-migration from other parts of the country. From April 1, 2000 to July 1, 2006, it is estimated that there was a natural increase in the population of 6,431 (91,093 births less 88,806 deaths) and net migration of 139,754 (50,948 from net international migration plus 88,806 from net internal migration). Much of the population growth is attributable to the County being a popular destination for retirees. About 21 percent of the County's population was 65 years and over in 2005, as compared to that age group representing about 12 percent of the U.S. population and approximately 17 percent of Florida's population that year. Accompanying the increase in population has been an increase in employment. From 2000 to 2004, there was an increase of 77,553 full- and part-time jobs (U.S. Bureau of Economic Analysis). The increases in population and employment have generated increases in demand for homes, commercial and institutional buildings, and infrastructure. Median household income in the county 2004 was $44,186 and 10.1 percent lived below poverty, as compared to the statewide median household income of $40,900 and poverty rate of 11.9 percent.

The three major multi-billion dollar industries in the county are tourism, construction, and agriculture, with tourism being number one (Palm Beach County government website, www.pbc.com/publicaffairs/facts1.htm). In 2004, over 7.2 million people visited the county, which supported $1.51 billion in wages and 7 percent of the jobs and generated an economic impact of $2.83 billion (Palm Beach County Tourist Development Council).‡‡‡‡‡‡‡‡

In 2005, the top three industrial sectors by number of employees were Retail Trade (NAICS 44), Health Care & Social Assistance (NAICS 62), and Accommodation & Food Services (NAICS 72), the latter being a principal component of tourism. See Table 5.3.23. In 2005, the County had 154 employer establishments in the industry subsector Traveler Accommodation (NAICS 7211) with 5,000 to 9,999 employees; 14 employer

‡‡‡‡‡‡‡‡ A hotel visitor survey has found that the climate/weather, beaches/ocean, and beautiful area are what visitors like best about Palm Beach County (Palm Beach County Tourist Development Council).

establishments in RV (Recreational Vehicle) Parks and Recreational Camps with 63 employees (U.S. Census Bureau, 2005 County Business Patterns). See Table 21. That same year there were 229 non-employer firms in Traveler Accommodation with annual sales of about $27.3 million and 10 non-employer firms in RV Parks & Recreational Parks with annual sales of over $1 million in the County (U.S. Census, 2005 Nonemployer Statistics). Other important industrial sectors of the County economy include Professional, Scientific & Technical Services (NAICS 54), Retail Trade (NAICS 44), and Health Care and Social Assistance (NAICS 62).

Table 5.3.23. 2005 Nonemployer Firms and Employer Establishments, Palm Beach County. *Source*: U.S. Census Bureau, 2005 County Business Patterns and Nonemployer Statistics.

NAICS Code	Industry Code Description	Non-Employer Establish-ments	Non-Employer Receipts ($1,000)	Employer Establish-ments	No. of Employees	Annual Payroll ($1,000)
11	Forestry, fishing, hunting & agricultural support	636	27,851	78	1,398	20,666
21	Mining	18	1,971	24	234	12,828
22	Utilities	48	1,813	30	3,969	412,927
23	Construction	10,593	688,604	4,266	37,576	1,544,242
31	Manufacturing	1,221	74,104	975	15,769	753,088
42	Wholesale trade	2,793	251,624	2,436	19,902	1,052,622
44	Retail trade	7,849	453,732	5,458	73,486	1,831,500
48	Transportation & warehousing	4,172	215,349	773	8,935	326,350
51	Information	1,577	83,540	738	15,530	770,340
52	Finance & insurance	7,523	603,238	3,175	25,748	1,934,633
53	Real estate & rental & leasing	21,153	1,774,645	2,766	14,731	636,205
54	Professional, scientific & technical services	17,586	946,661	6,746	36,406	2,206,725
55	Management of companies & enterprises	0	0	217	16,799	1,268,578
56	Admin, support, waste mgt, remediation services	9,542	291,528	3,000	43,417	1,316,027
61	Educational services	2,106	43,080	469	9,864	301,140
62	Health care & social assistance	9,958	367,559	4,511	65,692	2,630,989
71	Arts, entertainment & recreation	4,906	189,810	796	16,627	453,617
72	Accommodation & food services	1,462	121,315	2,478	54,686	853,655
81	Other services (except public adm.)	16,293	554,540	3,625	23,587	564,578
99	Unclassified establishments	0	0	87	115	2,561
	TOTAL	119,436	6,690,964	42,648	484,471	18,893,271

5.3.8.5. Broward County

Broward County ranks fourth in annual landings of Caribbean spiny lobster. From 1994 through 2006 its landings represented 0.81 percent of the average annual landings during those years. County landings have dropped since reaching a peak of over 57,000 pounds in 2000. See Table 5.3.24.

Table 5.3.24. Broward County Landings of Caribbean Spiny Lobster, in Pounds, 1994 – 2006. Source: FFWCC.

Year	Spiny Lob	State Total Lbs	% of State Pounds
1994	67,891	7,087,357	0.96%
1995	71,723	7,001,661	1.02%
1996	94,219	7,865,678	1.20%
1997	56,600	7,107,684	0.80%
1998	43,121	5,831,407	0.74%
1999	50,921	7,578,321	0.67%
2000	53,619	5,763,470	0.93%
2001	57,617	3,405,509	1.69%
2002	25,394	4,483,426	0.57%
2003	16,711	4,268,277	0.39%
2004	28,664	4,983,400	0.58%
2005	21,067	3,365,221	0.63%
2006	16,435	4,755,048	0.35%
Average	46,460.15	*5,653,573.77*	*0.81%*

Broward County has a total area of 3,418 km^2 (1,320 square miles), with 3,122 km^2 being land and the remaining 296 km^2 (about 9 percent) being water (U.S. Census Bureau). Approximately 64 percent of the country's total area lies within the Everglades conservation area, and development is restricted to 410 square miles (Broward County Planning Services Division). Major Cities include Coral Springs, Fort Lauderdale, Hollywood and Pembroke Pines. See Figure 5.3.13.

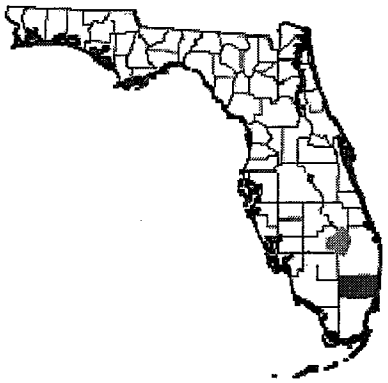


Figure 5.3.13. Broward County. *Image Source*: Wikipedia.

Broward County is the second most populated county in Florida and is the 15th most populous county in the nation. According to U.S. Census Bureau estimates, the population of Broward County grew 10.1 percent from April 1, 2000 to July 1, 2006, with approximately 1.79 million people in 2006. During that same period, the natural increase in population was 43,623 (142,787 births less 99,164 deaths) and net migration was 120,768 (100,986 net international migration plus 19,782 net internal migration), for a total increase of 164,391 people. The increase in population has resulted in increased demand for homes, retail and commercial buildings and infrastructure. Housing units increased from 741,043 in 2000 to 790,308 in 2005, an increase of less than 7 percent (U.S. Census). Median household income in the county in 2004 was $43,136 in 2004 and 11.6 percent of the persons in the county lived below poverty, as compared to the statewide median household income of $40,900 and the poverty rate of 11.9 percent. Service industries and retail trade dominate the county's economic environment. In 2005, there were more establishments in the Professional, Scientific & Technical Services sector (NAICS 54) than any other sector, and there were more paid employees in Retail Trade than any other sector. See Table 5.3.25.

Tourism's contribution is significant. In 2005, the county had a record of over 10 million visitors, a 6.3 percent increase from 2004 (Broward County Department of Urban Planning and Redevelopment, 2006). Tourism generates more than $8.4 billion and employs more than 112,000 people in the county. In 2005, Fort Lauderdale-Hollywood International Airport's over 22 million passengers broke the previous year's record of travelers passing through the facility.

In 2005, the County had 344 employer establishments in the industry subsector Traveler Accommodation (NAICS 7211) with 10,000 to 24,999 employees; 15 employer establishments in RV Parks and Recreational Camps (NAICS 7212) with 20 to 99 employees (U.S. Census Bureau, 2005 County Business Patterns). That same year there were 318 non-employer firms in Traveler Accommodation with annual sales of about $23.8 million and 17 non-employer firms in RV Parks & Recreational Parks with annual sales of $486,000 in the County (U.S. Census, 2005 Nonemployer Statistics).

Table 5.3.24. 2005 Nonemployer and Employer Business Statistics, Broward County. *Source*: U.S. Census, 2005 County Business Patterns and Nonemployer Statistics.

NAICS Code	Industry Code Description	Non-Employer Firms	Non-Employer Receipts ($1,000)	Employer Establish-ments	No. of Employees	Annual Payroll ($1,000)
11	Forestry, fishing, hunting & agricultural support	467	20,022	50	100 - 249	*
21	Mining	18	2,536	9	133	11,972
22	Utilities	87	4,369	26	500 - 999	*
23	Construction	15,482	824,796	4,729	45,489	1,915,366
31	Manufacturing	1,791	118,443	1,679	29,655	1,160,990
42	Wholesale trade	4,383	439,736	4,710	41,514	1,976,541
44	Retail trade	11,293	579,188	7,374	102,197	2,625,584
48	Transportation & warehousing	7,821	382,114	1,346	21,480	811,196
51	Information	2,504	106,506	1,117	19,503	1,123,875
52	Finance & insurance	7,825	487,869	3,969	40,480	2,335,984
53	Real estate & rental & leasing	25,240	1,843,848	3,670	18,422	704,456
54	Professional, scientific & technical services	22,385	1,035,758	9,187	41,852	2,212,225
55	Management of comps. & enterprises	0	0	273	10,999	983,114
56	Admin, support, waste mgt, remediation services	14,601	386,155	3,869	65,367	1,833,766
61	Ed. services	2,782	55,593	603	15,046	450,758
62	Health care & social assistance	17,572	544,595	5,496	84,111	3,212,404
71	Arts, entertainment & recreation	6,714	222,151	960	9,728	316,824
72	Accommodation & food services	2,312	155,492	3,568	68,512	1,016,954
81	Other services (except public adm.)	27,791	808,376	4,847	30,422	753,542
99	Unclassified establish- ments	0	0	140	176	4,134
	TOTAL	171,068	8,017,547	57,622	646,067	23,509,177
*:	Zero in 2005 County Business Patterns					

Port Everglades infuses more than $2.4 billion annually to the county's economy (ibid). It handles about 4 million cruise passengers and over 26 million tons of cargo annually, and nearly 6,400 cargo and cruise ships call at the port each year (ibid). According to Broward County Department of Urban Planning and Redevelopment, Port Everglades has been ranked as one of the five fastest growing container ports among the nation's 20 largest seaports. It handles more than 22.1 percent of the entire state of Florida's waterborne imports and exports.

Fishing is another sector that is important to the Broward County economy, and coral reefs are important habitat for species targeted by commercial and recreational fishermen. In 2002, there were 26 business establishments in the charter-fishing-&-party-fishing-boat subsector (NAICS 4872102) in the County (2002 Economic Census, Transportation and Warehousing Subject Series).

5.3.9 Puerto Rico

Puerto Rico is an archipelago comprised of the main island (Puerto Rico) and several smaller oceanic islands: Mona, Monito, Desecheo, Caja de Muertos, Vieques, and Culebra, and still smaller islands known as the "Cordillera de Fajardo." Its waters extend 9 nautical miles (10.36 statute miles) off its shore. See Figure 5.3.14. About one-third of the population lives around the capitol city of San Juan, and over 11 percent of the population in San Juan. Other major municipalities are Bayamón, Ponce, Carolina, Arecibo, Guaynabo, and Mayaguez.

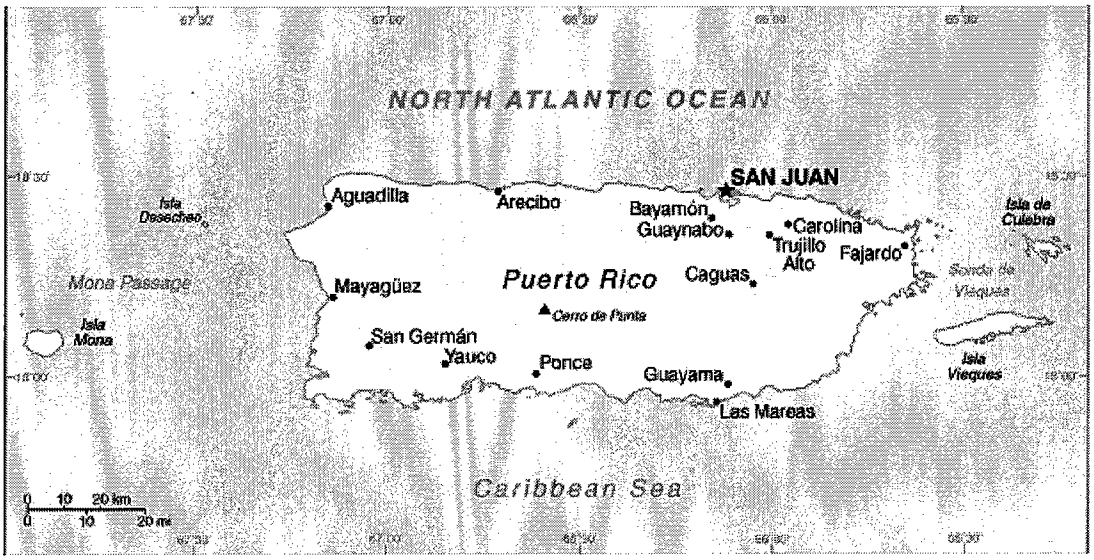


Figure 5.3.14. Puerto Rico. *Image Source*: Central Intelligence Agency.

According to the U.S. Census Bureau, the population of Puerto Rico increased about 3 percent from April 1, 2000 to July 1, 2006, with approximately 3.93 million people in 2006. The increase in population has been accompanied by a larger percentage increase in housing units. Housing units increased from about 1.26 million in 2000 to approximately 1.44 million in 2005, an increase of about 14.2 percent. In 2005, median household income in Puerto Rico was $17,184, as compared to $46,242, which was the median household income for the U.S. as a whole.

Manufacturing dominates Puerto Rico's industrial sector. In fiscal year 2002, the Manufacturing sector accounted for approximately 42 percent of Puerto Rico's Gross Domestic Product. The value of sales, receipts or shipments from manufacturing was approximately $58.6 billion. See Table 5.3.25. The chemical industry is the largest component of the manufacturing sector, with about a 64 percent share (Government Development Bank for Puerto Rico 2003), and that in turn is dominated by the pharmaceutical and medicine-manufacturing sector. Food, electronics, and apparel manufacturing are other major manufacturing industries in the Territory.
Retail Trade and Wholesale Trade follow Manufacturing as key sectors. In 2002, Retail and Wholesale Trade combined accounted for sales, receipts or shipments totaling $46.5 billion. The top three sectors by number of employees are Retail Trade, Health Care & Social Assistance, and Construction.

Table 5.3.25. 2002 Economic Census, Summary Statistics, Puerto Rico. *Source:* U.S. Census Bureau.

NAICS Code	Description	Employer Establish-ments	Sales, Receipts or Shipments ($1,000)	Annual Payroll ($1,000)	Paid Employees
21	Mining	44	107,000	18,834	949
22	Utilities	18	369,932	21,040	503
23	Construction	2,683	5,523,472*	1,009,747	67,288
31-33	Manufacturing	2,196	58,580,060	N	N
42	Wholesale trade	2,313	16,172,710	1,009,360	39,316
44-45	Retail trade	11,465	20,422,975	1,655,584	122,435
48-49	Transportation & warhousing	1,071	2,076,573	253,758	13,137
51	Information	462	3,686,792	633,161	19,696
52	Finance & insurance	1,809	10,233,015	1,152,628	36,059
53	Real estate & rental & leasing	1,783	1,698,631	148,334	8,183
54	Professional, scientific & technical services	3,965	2,836,774	701,485	26,197
55	Management of companies & enterprises	94	511,676	79,091	2,237
56	Administrative & support & waste management & remediation service	1,724	2,336,978	88,063	61,703
61	Educational services	306	242,810	74,829	4,647
62	Health care & social assistance	6,464	4,967,317	1,224,260	68,338
71	Arts, entertainment & recreation	369	278,975	45,393	3,115
72	Accommodation & food services	4,133	3,360,226	732,147	63,810
81	Other services (exceptu public administration)	3,324	1,470,563	281,805	18,417

N = Not available
* value of construction

San Juan Port is one of the world's busiest cruise ship ports and is a central hub for Caribbean cruises. Port of Ponce is the second largest port and Mayaqúez Port, the third. Smaller ports and harbors include Guánica, Guayanilla, Guayana, Fajardo, Culebra, and Vieques.

Puerto Rico's coastline attracts tourists, and tourism, including eco-tourism, is a very important industry; it represents about 6 percent of the Territory's Gross National Product (Message of the Executive Director of Puerto Rico Tourism Company, February 9-13, 2006). An estimated 5 million tourists visited Puerto Rico in 2004 (Central Intelligence Agency). It is anticipated that recent changes in passport law, which restrict the places

where one may travel without a passport, may cause an increase in the number of U.S. citizens who visit the Territory because no U.S. passport is required to travel there.[§§§§§§§§] The eastern coast of Puerto Rico, from Fajardo to Humacao and the offshore nature islands of Vieques and Culebra, have been popular destinations for tourists who snorkel and dive. Another popular snorkeling and diving location is off La Parguera on the southwestern coast, where one can find elkhorn and staghorn corals. Rincón, a municipality on the west coast, is a popular site for coastal tourism, where tourists engage in surfing, tanning, fishing, snorkeling, and SCUBA diving (Pendleton, 2002).

Fishing is another sector that is important to the Puerto Rican economy, and coral reefs are important habitat for species targeted by commercial, recreational and subsistence fishermen. During the period from 1995 through 2002, commercial fishermen caught an average of 1.6 million tons of fish annually, with 87 percent of the fishermen targeting reef fish and invertebrates, including conch and lobster (NOAA Coral Reef Ecosystem Research Plan). In 2005, domestic landings of shallow water reef fish totaled 771,656 pounds (350,022 kilograms) with a value of $1,766,337. These landings represent approximately 66 percent of total pounds of fish landed in Puerto Rico that year. In 2005, 173,445 pounds of spiny lobster were landed with a dockside value of $997,005 and 195,701 pounds of conch were landed with a dockside value of $498,094 (Fisheries of the United States 2005).

5.3.10 U.S. Virgin Islands

The U.S. Virgin Islands consists of the main islands of St. Croix, St. John, and St. Thomas, and 54 smaller islands and keys. Combined it has a land mass of about 134 square miles (346 square kilometers) and territorial waters that encompass approximately 972 square miles (1,564 square kilometers). The U.S. Virgin Islands' waters extend 3 nautical miles (3.45 statute miles) off its shore. See Figure 5.3.15.

[§§§§§§§§] As stated in the final rule for Documents Required for Travelers Departing From or Arriving in the United States at Air-Ports-of-Entry from Within the Western Hemisphere (71 FR 68411, November 24, 2006), "Beginning January 23, 2007, all United States citizens and nonimmigrant aliens from Canada, Bermuda and Mexico departing from or entering the United States from within the Western Hemisphere at air-ports-of-entry will be required to present a valid passport."

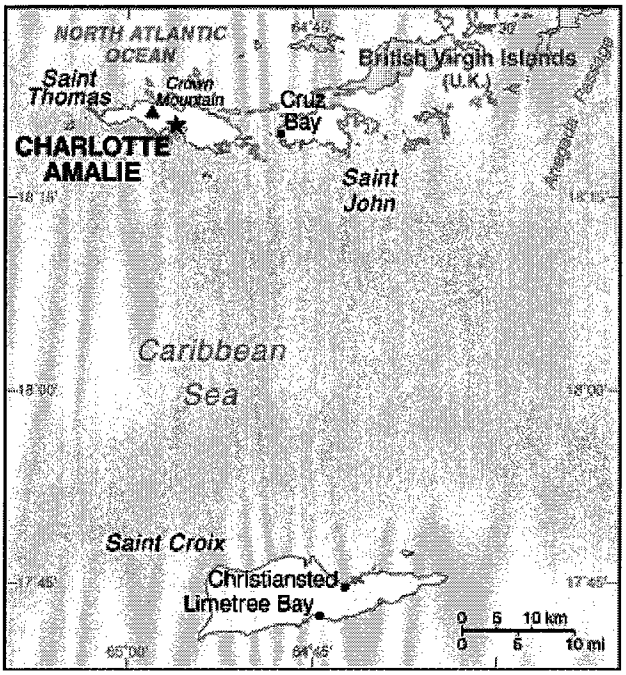


Figure 5.3.15. U.S. Virgin Islands. *Image Source:* Central Intelligence Agency.

According to the U.S. Census Bureau, the population of the U.S. Virgin Islands increased from 101,809 in 1990 to 108,612 in 2000, about a seven percent increase. From 1990 to 2000, the population of St. Croix increased from 50,139 to 53,234, the population of St. John increased from 3,504 to 4,197 and the population of St. Thomas expanded from 48,166 to 51,181. The population increase was accompanied by an increase in the number of housing units, which rose from 39,290 in 1990 to 50,202 in 2000, an increase of over 27 percent in ten years. Median household income of the U.S. Virgin Islands as a whole was $24,704 in 2000, compared to the U.S. median of $41,994 at that time. *The World Factbook* estimates the July 2007 population to be 108,448 (www.cia.gov/library/publications/the-world-factbook/geos/rq.html).

Tourism is the largest contributor to the U.S. Virgin Islands' economy; it accounts for 80 percent of the Territory's Gross Domestic Product and employment (Central Intelligence Agency). In 1994, the total number of visitor arrivals was approximately 1.9 million and that number increased to over 2.6 million by 2004. It is anticipated that recent changes in U.S. passport laws, which restrict the places a U.S. citizen can travel to without a passport, may cause an increase in the number of U.S. citizens who visit the Territory because no U.S. passport is required to travel there. A survey conducted for the Virgin Islands Department of Planning and Natural Resources found that 100 percent of hotel industry participants answered that there would be a significant impact on tourist visits to the U.S. Virgin Islands if the coast/beaches were degraded or fisheries and/or coral reefs declined (U.S. Virgin Islands 2003).

Retail Trade is the largest sector by number of establishments, number of employees, annual payroll, and value of sales, receipts or shipments. See Table 5.3.26. Accommodation & Food Services is the second largest sector, followed by Construction. In 2002, the value of construction work was about $286 million, an increase of about 55 percent from 1997, and an increase of about 70 percent from 1992 (U.S. Census Bureau, Economic Census). Among this construction are new, remodeled, and expanded hotels and resorts. Important industries within manufacturing include petroleum refining, watch assembly, rum distilling, pharmaceuticals, textiles, and electronics.

Table 5.3.26. 2002 Economic Census Summary Statistics, U.S. Virgin Islands. *Source:* U.S. Census Bureau.

NAICS Code	Description	No. Estab.	Sales, Receipts or Shipments ($1,000)	Annual Payroll ($1,000)	Paid Employees
21	Mining	1	D	D	a
22	Utilities	4	D	D	a
23	Construction	190	285,582*	90,662	3,050
31-33	Manufacturing	63	172,830	27,151	1,058
42	Wholesale trade	74	262,932	27,664	1,028
44-45	Retail trade	680	1,217,466	128,444	6,653
48-49	Transportation & warhousing	106	181,965	34,194	1,134
51	Information	45	183,770	30,285	845
52	Finance & insurance	96	248,229	48,040	1,416
53	Real estate & rental & leasing	192	184,904	26,224	1,152
54	Professional, scientific & technical services	228	360,192	50,235	1,238
55	Management of companies & enterprises	23	30,745	2,183	76
56	Administrative & support & waste management & remediation service	155	135,267	35,834	2,050
61	Educational services	19	5,792	1,668	97
62	Health care & social assistance	203	93,289	24,428	1,232
71	Arts, entertainment & recreation	38	110,039	14,271	662
72	Accommodation & food services	313	331,008	92,357	5,639
81	Other services (exceptu public administration)	185	153,703	34,689	1,307

D = Data not disclosed
a = 0 - 19 employees
* Value of construction work

5.3.11 Hurricanes

Hurricanes can have both positive and negative economic impacts on spiny lobster fishermen, especially those that use traps. The beneficial impact is that a hurricane can cause lobsters to move and go into traps and nets, which increases landings. However,

the negative impacts include damages to and losses of traps, other gear, and vessels and associated losses of landings and revenues.*********

On September 25, 1998, Hurricane Georges struck Florida with reported maximum sustained winds of approximately 95 miles per hour with gusts up to 115 miles per hour and an approximate storm surge of up to seven (7) feet. Several counties had widespread damage, including Monroe County (Wetherell). One of the worst hurricane seasons on record was the 2005 season. Of those that hit the coast of Florida, the four of Dennis (July), Katrina (August), Rita (September), and Wilma (October) had a significant adverse impact on spiny lobster trap fishers. According to a May 1, 2006, article at *keysnews.com*, Florida Keys lobster trap fishermen "reported losing up to 70 percent of their traps in the four hurricanes that skirted the Keys in 2005. Officials have estimated that the hurricanes cost lobster fishermen $35 million in lost traps and catch" (O'Hara, May 1, 2006). In April 2006, the Florida Hurricane Relief Fund, which was established in 2004, gave $0.5 million to the Florida Keys Commercial Fishermen's Association (Association) to help lobster and stone crab fishers in Monroe and Miami-Dade counties replace traps lost to the 2005 hurricane season. According to the Association's executive director, the money will be equally distributed among the fishermen who apply for aid (ibid).†††††††††

5.4 Administrative Environment

5.4.1 Federal Fishery Management

Federal fishery management is conducted under the authority of the Magnuson-Stevens Act (16 U.S.C. 1801 et seq.), originally enacted in 1976 as the Fishery Conservation and Management Act. The Magnuson-Stevens Act claims sovereign rights and exclusive fishery management authority over most fishery resources within the EEZ, an area extending 200 nautical miles from the seaward boundary of each of the coastal states, and authority over US anadromous species and continental shelf resources that occur beyond the EEZ.

Responsibility for federal fishery management decision-making is divided between the Secretary and eight regional fishery management councils that represent the expertise and interests of constituent states. Regional councils are responsible for preparing, monitoring, and revising management plans for fisheries needing management within their jurisdiction. The Secretary is responsible for promulgating regulations to implement proposed plans and amendments after ensuring management measures are consistent with the Magnuson-Stevens Act and with other applicable laws summarized in Section 10. In most cases, the Secretary has delegated this authority to NMFS.

********* Traps are not insurable.

††††††††† To prove eligibility, a commercial lobster and stone crab fishermen "must show tax receipts for the past several years and documents showing their landings" (O'Hara, May 1, 2006).

The Councils are responsible for fishery resources in federal waters of their respective regions. These waters extend to 200 nautical miles offshore from the nine-mile seaward boundary of the states of Florida Texas and the territory of Puerto Rico, and the three-mile seaward boundary of the Atlantic side of Florida and the states of Alabama, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, and the territory of the USVI.

The Councils consist of voting members: public members appointed by the Secretary; one each from the fishery agencies of the state or territory, and one from NMFS. The public is also involved in the fishery management process through participation on advisory panels and through council meetings that, with few exceptions for discussing personnel matters and litigation, are open to the public. The regulatory process is also in accordance with the Administrative Procedures Act, in the form of "notice and comment" rulemaking, which provides extensive opportunity for public scrutiny and comment, and requires consideration of and response to those comments.

Regulations contained within FMPs are enforced through actions of the NOAA's Office of Law Enforcement, the USCG, and various state authorities. To better coordinate enforcement activities, federal and state enforcement agencies have developed cooperative agreements to enforce the Magnuson-Stevens Act.

5.4.2 State Fishery Management

The purpose of state/territory representation at the council level is to ensure state/territory participation in federal fishery management decision-making and to promote the development of compatible regulations in state/territory and federal waters. The state and territorial governments have the authority to manage their respective state/territorial fisheries. Each of the states and territories exercises legislative and regulatory authority over their states'/territories' natural resources through discrete administrative units. Although each agency is the primary administrative body with respect to the states'/territories' natural resources, all states/territories cooperate with numerous state/territory and federal regulatory agencies when managing marine resources.

6.0 ENVIRONMENTAL CONSEQUENCES

6.1 Action 1: Minimum Size Limits for Spiny Lobster (*Panulirus argus*) Imported into the United States

6.1.1 Direct and Indirect Effects on the Physical, Biological, and Ecological Environment

Many regional populations of spiny lobsters are fully capitalized or overfished as indicated by declining catch-per-unit effort in local fisheries (Ehrhardt 1994; Fonteles-Filho 1994). The distribution and dispersal of *P. argus* is determined by the long planktonic larval phase, called the puerulus, during which time the infant lobsters are carried by the currents until they become large enough to settle to the bottom (Davis and Dodrill 1989). Individuals two to four years old exhibit nomadic behavior emigrating out

of the shallows and moving to deeper, offshore environments. Given the wide distribution and nomadic behavior, it is hard to determine a definitive stock structure for this species. Additionally, there are a multitude of currents and other factors that influence the movement of water throughout the range of *P. argus* making it more difficult to predict, with any certainty, the distribution and settlement patterns of larvae.

The strong flow of the Caribbean Current as well as localized gyres in the south of Cuba, Central America, Puerto Rico, and around the Florida Keys increases the probability of the mixing of larval populations from different regions. Because of this mixing, regional cooperation is extremely important in managing the spiny lobster population. During a number of meetings (e.g., Merida, 2000 and OSPESCA, 2007), representatives from the various Caribbean, Central, and South American Nations have begun building a cooperative management strategy. This strategy includes the acknowledgement that spawning biomass and potential yield would benefit from an increase in the minimum size of lobster being caught. However, numerous issues still exist with implementation of this strategy in a number of participating countries.

As a means to facilitate this strategy, a number of countries and industry representatives have sought a law in the U.S. that would implement minimum conservation standards on lobster being imported into the U.S. As the top importer of spiny lobster products, the U.S. has considerable influence in the market of those products. If an import law were implemented to require spiny lobster products to meet minimum conservation standards, exporting countries and the fisheries within those countries would have incentive to meet those minimum conservation standards. These minimum conservation standards would achieve an increase in the spawning biomass and increase potential yield by limiting imports to a size at which approximately 50 % of the population has had a chance to spawn prior to harvest.

The measures presented for restricting imports are nearly identical to those put forth in the various meetings throughout the history of cooperative management meetings. As an example, the OSPESCA workshop accords of 2007 recommended a minimum harvest size for lobster tails of 140 mm (5.5 inches) and an average tail weight of 5 ounces, ranging from 4.5 to 5.5. The conservation standards presented in Action 1 **Alternative 3** are consistent with these recommendations. The difference in tail weight between the workshop accords and those in the document are a matter of an industry practice versus scientific conversions.

As discussed in Section 4.1, the 4.5 ounce tail weight recommendation was not based on scientific conversions from the recommended 140 mm tail length, but was instead based on industry practice of sorting and shipping. Tables 4.1.2 and 4.1.3 provide conversions from carapace length to tail length and tail weight based on Matthews et al. (2003). If we examine the 140 mm (5.5 inch) tail length recommendation, we see it is derived from one standard deviation of the mean for a 3.0 inch (76.2 cm) carapace length animal (table 4.1.3, in green). Therefore, if a tail length recommendation is based on one set of scientific standards, all conversions from the carapace length should be based on that same standard. Therefore, the appropriate tail weight to be used for a 3.0 inch carapace

length animal would be a 4.15 ounce tail weight (Table 4.1.3, in yellow). This, like the tail length recommendation is based on one standard deviation from the mean for the measurements of a 3.0 inch carapace length animal. For the purpose of simplifying this requirement, the weight has been rounded to one decimal place to make the requirement a 4.2 ounce tail weight. For imports to the U.S. Caribbean, similar conversions from a 3.5 inch CL animal yield a minimum TW of 5.9 ounces and a TL of 6.2 inches (Table 4.1.3, in turquoise).

Alternative 2 would require imports to meet one of two sets of standards, dependent on port of entry for the product. For those products entering the U.S., the requirements would be the same as those for **Alternative 3** (4.2 oz TW, $\geq$ 3" CL, 5.5" TL); for those products entering the U.S. Caribbean the minimum conservation standards would be slightly more restrictive. Currently, the U.S. Caribbean has a domestic law requiring spiny lobster to have a CL of 3.5 inches. Therefore, in an effort to be fair and equitable to U.S. Caribbean fishermen, the measures for importing spiny lobster to the U.S. Caribbean would require lobster to have a 5.9 oz TW, 3.5 inch CL, and 6.2 inch TL

The differences between the continental U.S. and U.S. Caribbean minimum size limits stems from the scientific uncertainty of the size at 50% maturity for spiny lobster and the fecundity of a typical female at a given size. As an illustration of fecundity at size, from the Florida Fish and Wildlife Conservation Commission's Ad Hoc Advisory Board synopsis:

"For spiny lobster, the typical number of eggs produced per clutch of a 3 inch carapace length female is 300 thousand eggs. A 3.5 inch carapace length female produces 500 thousand eggs; a 4 inch carapace length female produces 700 thousand eggs. A 3 inch carapace length lobster may produce two clutches, but by the time female lobsters attain a 4 inch carapace length, the typical number of clutches per breeding season is three, perhaps four."

By increasing the size limit from 3 to 3.5 inches, an increase of 250% to 350% in egg releases would be seen in a breeding season per lobster. Obviously this is an enormous increase in egg production and would have a significant impact on future lobster population size and structure.

To further understand the fecundity dynamics of female lobster and the uncertainty around size at maturity Bertelsen and Matthews (2001) examined two populations of spiny lobster in the Florida Keys. The authors compared the size structure, fecundity, and reproductive season of spiny lobsters in the Dry Tortugas National Park sanctuary with those of spiny lobsters in the south Florida fishery. The number of lobsters of both sexes larger than the legal size limit declined sharply in the fishery but not in the sanctuary. Clutch sizes were larger in the sanctuary (avg. 0.8 million) than in the fishery (avg. 0.3 million), and the reproductive season was shorter and more intense in the sanctuary than in the fishery. In addition, lobsters in the sanctuary begin egg production at a larger size and produce more eggs per gram of body mass than lobsters in the fishery.

Lobsters less than 70 mm CL were found to produce eggs in the fishery but very few lobsters less than 80 mm CL and none less than 70 mm CL produce eggs in the sanctuary.

Because of the obvious benefits of having a 3.5 inch CL minimum size, the Caribbean Council adopted this measure in their FMP and feel it would be more beneficial to the pan-Caribbean spiny lobster population to implement this size limit throughout the species range. Therefore, the Caribbean Council feels it is prudent and justifiable to require imports to meet the same minimum conservation standards as those applied to the local lobster population and which must be met by fishermen that harvest those lobsters.

Based on the discussion of the relationship between size and fecundity, **Alternative 2** would be more beneficial to the spiny lobster population than either **Alternative 1** or **Alternative 3**. **Alternative 2** would require at least some portion of lobster to meet the more conservative morphometric requirements (those imported to the U.S. Caribbean) and therefore benefit the population more. However, **Alternative 3** is more conservative than **Alternative 1** and would be more beneficial to the population than not having any import conservation standards in place. If **Alternative 1** were to be the preferred alternative, there would continue to be importation of lobsters below any size at maturity (i.e., juvenile lobsters), which would continue to contribute to the over-exploitation problems seen in much of the range of spiny lobsters. Therefore, **Alternative 2** would be the most beneficial to the pan-Caribbean spiny lobster population followed by **Alternative 3** and **Alternative 1** in decreasing order of benefits.

Aside from an increase in the spawning biomass and increase in potential yield, requiring lobsters to meet minimum conservation standards is expected to have effects on the communities these animals inhabit. The spiny lobster is an important predator and prey organism in the reef and seagrass community. After the larvae settle out of the planktonic phase, they enter the seagrass and macroalgae habitat where they feed on small gastropods, mollusks, amphipods, and ostracods. As adults, the lobsters feed on slow-moving or stationary invertebrates such as sea urchins, mussels, gastropods, clams, and snails (Lipcius and Cobb 1994). At both the juvenile and adult stage, spiny lobsters are an important food item for larger finfish and sharks.

By increasing the spawning biomass, it would be expected for more lobsters to settle out of the planktonic phase and into the juvenile habitat. More lobsters in the juvenile habitat would in turn have an effect on the food web dynamics of the seagrass macroalgae community and those inhabitants. Likewise, more lobsters would reach adult size and migrate out to the reef community where they would forage on slow moving or sessile invertebrates of that community. There would also be an expected increase of finfish and sharks preying on the increased biomass of lobsters. This series of events from increasing the spawning biomass would be expected to have overall benefits on the seagrass and reef communities inhabited by spiny lobster. Therefore, **Alternative 2** would indirectly have the most beneficial effect on the environment of the spiny lobster with **Alternative 3** providing somewhat reduced benefits and **Alternative 1** providing no additional benefits above what is witnessed in the seagrass and reef environments now.

The impacts of **Alternatives 1-3** will have no adverse affect on protected species occurring in U.S. waters, as this action is primarily administrative in nature. In the event these alternatives reduce spiny lobster fishing effort in exporting countries, the likelihood of adverse impacts from the fishery occurring to ESA-listed species located there may be reduced. However, any such benefit is anticipated to be very minor.

6.1.2 Direct and Indirect Effects on the Economic Environment

The greatest economic impact of the alternatives under consideration for Action 1 should be on those who illegally import undersized Caribbean spiny lobster. Some currently legally imported spiny lobster are expected not to meet the proposed import-size standards and will be affected; however, the majority of legal spiny lobster imports are not expected to be affected by the proposed size standards. See Section 7.5.1. The greatest direct economic effect will be the significant reduction in illegal imports of undersized lobsters and the greatest indirect effects will be the associated reductions in illegal revenues, profits and revenues generated by those imports. The other direct economic effect will be fewer legal imports from countries whose size standards do not meet or exceed those proposed in each of the two alternatives, which will have associated reductions in legal revenues, profits and revenues generated by those imports. However, in the long run, the status of the domestic and foreign stocks should improve and with those improvements there should be associated economic benefits. See Section 7.5.1.4 for a comparison of the direct and indirect economic costs and benefits of the various alternatives for this particular action. The direct and indirect effects of this action are dependent upon the second action because without additional harvest restrictions, illegal importers may increase their use of methods to avoid detection of undersized lobsters, such as removing the meat from the shell and packaging it into chunks.

Action 1 will also indirectly affect people who are presently damaged economically by the illegal importation of Caribbean spiny lobster, particularly Florida, Puerto Rico, and U.S. Virgin Islands spiny lobster fishermen who compete economically with those who add to the national supply of spiny lobster by importing and selling undersized lobsters. Domestic spiny lobster fishermen should benefit economically from an increase in market price that is associated with a reduction of market supply of spiny lobster that is caused by the improved detection and prevention of black market imports.

6.1.3 Direct and Indirect Effects on the Social Environment

Action 1 is expected to directly affect how people in the U.S. trade for non-domestically harvested Caribbean spiny lobster, especially those who presently knowingly or unknowingly import spiny lobsters that do not meet size standards of the country of origin. It should make those people who purposively import undersized spiny lobster less confident in black market activity, which should cause them to abandon or at least greatly reduce such illegal trade. At the same time, those who legally import spiny lobsters should become more confident that their import activities support sustainable spiny lobster fisheries, which may alter their domestic marketing of imported Caribbean spiny lobster by promoting it as a product of sustainable trade and fishing practices. However, the amount of confidence lost by black market traders or gained by legal importers would

also depend upon the second action because Action 1 alone would not prevent illegal importers from removing the meat from the shell and packaging it into chunks to avoid detection of undersized lobsters. In combination, both Action 1 and Action 2 are expected to adversely affect cultural traditions and social networks of organized crime groups and communities that engage in the illegal importation of undersized spiny lobsters. Furthermore, the same combination of actions is expected to beneficially affect cultural traditions and social networks of groups and communities that engage in the legal importation of Caribbean spiny lobsters.

Action 1 should indirectly affect people who buy, handle, transport, process, sell, and/or consume Caribbean spiny lobster after it has been imported by reducing the quantity of spiny lobster imported annually into the United States. The greatest indirect effect should be on those who knowingly or unknowingly buy, handle, transport, process, sell and/or consume imported undersized lobsters. In combination with Action 2, the first action should adversely affect cultural traditions and social networks of organized crime groups and communities that purposively engage in the buying, handling, transports, processing, selling, and/or consumption of illegally imported spiny lobster by decreasing both the confidence and abilities of people within those groups and/or communities to engage in such activities. At the same time, Action 1 in combination with Action 2 should benefit cultural traditions and social networks of groups and communities that purposively support legal and sustainable trade practices by increasing the confidence and abilities of people within those groups and/or communities to buy, handle, transport, process, sell and/or consume imported spiny lobsters that are consistent with legal and sustainable trade and fishing practices.

Action 1 should also indirectly affect domestic Caribbean spiny lobster fishermen by increasing their confidence in Federal efforts to protect and sustain their fishing livelihoods. In turn, the increased confidence should support existing cultural traditions and social networks of domestic spiny lobster fishermen and communities.

6.1.4 Direct and Indirect Effects on the Administrative Environment

Implementation and enforcement of size limits and other conservation standards is an administrative action designed to benefit the biological environment of the target species. Therefore, the actions in this amendment will affect the administrative environment. Sections 5.3 and 5.4 discuss the affected administrative environments and the valued environmental components (VEC) of the administrative environment within the lobster fishery. This amendment will affect three VECs within the administrative environment: management, law enforcement, and industry.

Promulgating regulations is a management action that requires development, implementation, and monitoring of the regulations and their effects. This action is designed to improve the stock status of the Caribbean spiny lobster throughout its range, therefore it will be incumbent upon management to monitor the spiny lobster stock and ensure the regulations are having the desired effect on the stock. If the desired effects are not seen within the spiny lobster population, management will need to evaluate the

regulations and adjust accordingly to achieve the purpose identified in the purpose and need section: improve stock status.

The other necessary component of regulations is the enforcement of those regulations. Without the efforts of law enforcement officials, no change in the lobster stock would be expected regardless of the regulations developed and implemented. Currently, the law enforcement environment is over-burdened in its attempts to stem the flow of undersized lobster entering the U.S. This burden is two-phased; one being the volume of lobster imports that enters the country (see Section 5.3) and the second is the lack of a strong regulation to enforce minimum conservation standards on imported lobsters. The volume of lobster imports is not likely to see a decrease as food resources throughout the world are constantly stretched to support a growing population. Therefore, a stronger regulatory framework to work under will provide the only relief to law enforcement officials.

Currently, any cases developed by law enforcement agents must be done under the Lacey Act. This law requires the cooperation of foreign nations, which has proven difficult in the past for a number of reasons, including resources, political will power, and foreign cooperation. With the implementation of either **Alternative 2** or **Alternative 3** law enforcement will have a more appropriate tool to stop or greatly reduce undersize imports from entering the country. Imports that do not meet the minimum conservation standards set forth in this amendment will be illegal and agents will be able to develop cases against those responsible for the imports without the need for foreign cooperation. Further, **Alternative 2** would be of greater value to law enforcement than **Alternative 3**.

Alternative 2 would require imports to meet the minimum conservation standards of the domestic law for the port of entry into which the imports are arriving. For example, imports into the USVI and Puerto Rico would need to have a TW measurement of 5.9 oz or greater. By requiring imports to meet the conservation standards of the port of entry, potential loopholes for harvesting domestic product and labeling it as imported product in an effort to circumvent domestic laws will be eliminated. This will eliminate the potential burden for law enforcement agents of disseminating local product from imported product as it all has to meet one set of standards. Therefore, **Alternative 2** would directly benefit law enforcement agents the most.

The third administrative environment effected by requiring imports to meet minimum conservation standards is that of the industry itself. Current industry practice sorts, packs, and sells lobster tails by weight category. These categories are generally whole ounce categories such as 4 ounce or 7 ounce tails which includes a range of weights. For example a 7 ounce would have tails ranging in weight from 6.5 to 7.5 ounces. Under either **Alternative 2** or **Alternative 3** industry practice would have to change slightly to accommodate the minimum weight requirements into the appropriate whole weight category. **Alternative 2** would require industry to change the weight range for a 5 ounce tail to include tails weighing 4.2 ounces as opposed to the current 4.5 ounces for those imports into the U.S.; for those lobsters imported to the U.S. Caribbean, the 6 ounce category would need to be changed to include lobsters that weighed 5.9 ounces as

opposed to the current 5.5 ounces. **Alternative 3** would require industry to change the weight range for a 5 ounce tail to include tails weighing 4.2 ounces as opposed to the current 4.5 ounces for all imports. And obviously, the 2, 3, and 4 ounce weight categories would need to be eliminated completely.

The implementation of minimum conservation standards is expected to indirectly benefit the administrative environment. Industry is expected to indirectly benefit through the increased production of the lobster stock, thus meeting an ever growing demand globally for protein sources. Law enforcement will be able to focus on a wider range of enforcement issue without having to devote such an inordinate amount of time to developing cases against importers of illegal size lobster as they now have to do through the Lacey Act.

6.2 Action 2: Other Import Restrictions

6.2.1 Direct and Indirect Effects on the Physical, Biological, and Ecological Environment

These other conservation standards applied to the spiny lobster products (i.e., prohibitions on the possession/importation of lobster tail meat, berried lobsters, lobsters that have been stripped or clipped) are expected to benefit the biological and ecological environment by providing additional protection to the spawning stock in the wider Caribbean. The degree to which these restrictions benefit the spiny lobster resource will depend largely on the effectiveness of enforcement at the country of exportation and the ability of LE officials to curtail the flow of such product. Establishing additional restrictions on the imports of spiny lobster such as prohibiting lobster meat and berried lobster, in combination with the size limits proposed in Action 1, would compliment efforts in improving the status of the spiny lobster stock. Prohibiting imports of berried lobster would allow for females to release those clutches and produce additional clutches, which will eventually recruit to the adult population and the fishery. While eliminating the allowance of lobster meat will protect smaller individuals that would otherwise be harvested and processed into lobster meat product.

As discussed in section 4.2, lobster importers/exporters developed methods for circumventing minimum size standards when there was "a lot of pressure on under 5 oz" by creating a "lobster meat" product. This "lobster meat" product would have the effect of undermining any conservation standard minimum size limits developed to increase the spawning stock biomass of the spiny lobster population. Therefore, **Alternative 2** and **3** would eliminate this loophole that was developed when importers/exporters realized LE officials were cracking down on illegal size imports. By doing so, **Alternative 2** and **3** are expected to have positive direct effects on the biological and ecological environment of spiny lobster.

Any measure designed to protect individuals in an active reproductive mode would obviously directly benefit the stock and help to achieve an increase in spawning stock biomass and long-term yield. The second part of **Alternative 2** and **Alternative 4** would achieve such a protection (prohibiting the importation of spiny lobster with eggs attached

or importation of spiny lobster where the eggs, swimmerets, or pleopods have been removed or stripped). In order to achieve the maximum benefits of the minimum conservation standards in Action 1, females in the process of reproducing must be allowed to complete that biological process without disruption. Therefore, in order to afford females with the most protection, even those animals that have been physically mutilated (removal of eggs, swimmerets, etc) to "hide" the condition of the animal must be considered illegal.

Aside from an increase in the spawning biomass and increase in potential yield, requiring lobsters to meet minimum conservation standards is expected to have effects on the communities these animals inhabit. The spiny lobster is an important predator and prey organism in the reef and seagrass community. After the larvae settle out of the planktonic phase, they enter the seagrass and macroalgae habitat where they feed on small gastropods, mollusks, amphipods, and ostracods. As adults, the lobsters feed on slow-moving or stationary invertebrates such as sea urchins, mussels, gastropods, clams, and snails (Lipcius and Cobb 1994). At both the juvenile and adult stage, spiny lobsters are an important food item for larger finfish and sharks.

By increasing the spawning biomass, it would be expected for more lobsters to settle out of the planktonic phase and into the juvenile habitat. More lobsters in the juvenile habitat would in turn have an effect on the food web dynamics of the seagrass macroalgae community and those inhabitants. Likewise, more lobsters would reach adult size and migrate out to the reef community where they would forage on slow moving or sessile invertebrates of that community. There would also be an expected increase of finfish and sharks preying on the increased biomass of lobsters. This series of events from increasing the spawning biomass would be expected to have overall benefits on the seagrass and reef communities inhabited by spiny lobster. Therefore, **Alternative 2** would indirectly have the most beneficial effect on the environment of the spiny lobster with **Alternative 3** providing somewhat reduced benefits and **Alternative 1** providing no additional benefits above what is witnessed in the seagrass and reef environments now.

The impacts of **Alternatives 1-3** will have no adverse affect on protected species occurring in U.S. waters, as this action is primarily administrative in nature. In the event these alternatives reduce spiny lobster fishing effort in exporting countries, the likelihood of adverse impacts from the fishery occurring to ESA-listed species located there may be reduced. However, any such benefit is anticipated to be very minor.

6.2.2 Direct and Indirect Effects on the Economic Environment

The greatest economic impact of the alternatives under consideration for Action 2 should be on those who illegally import Caribbean spiny lobster with eggs or with their eggs or pleopods removed. Some currently legally imported spiny lobster is expected not to meet the proposed harvest restrictions and will be affected; however, the majority of legal spiny lobster imports are not expected to be affected by these proposed alternatives. See Section 7.5.2. The greatest direct economic effect will be significantly less illegal imports and the greatest indirect effects will be associated reductions in illegal revenues,

profits and revenues generated by those imports. The other direct economic effect will be fewer legal imports from countries whose size and other harvest standards do not meet or exceed those proposed in the two actions, which will have associated reductions in legal revenues, profits and revenues generated by those imports. However, in the long run, the status of the domestic and foreign stocks should improve and with that improvements there should be associated economic benefits. See Sections 7.5.1.4 and 7.5.2.5 for a comparison of the direct and indirect economic costs and benefits of the various alternatives for this action. The direct and indirect effects of the first action are dependent upon this action because without additional harvest restrictions, illegal importers may increase their use of methods to avoid detection of undersized lobsters, such as removing the meat from the shell and packaging it into chunks.

Action 2 should also indirectly affect people who are presently damaged economically by the illegal importation of Caribbean spiny lobster, particularly Florida, Puerto Rico, and U.S. Virgin Islands spiny lobster fishermen who compete economically with those who add to the national supply of spiny lobster by importing and selling lobsters with eggs or with their eggs or pleopods removed. Domestic spiny lobster fishermen should benefit economically from an increase in market price that is associated with a reduction of market supply of spiny lobster due to improved detection and prevention of black market imports.

6.2.3 Direct and Indirect Effects on the Social Environment

The United States is the largest importer of Caribbean spiny lobster, and the illegal international trade of the species is a serious problem. Action 2 is designed to reduce the problem by improving the detection and prevention of the illegal importation of female lobsters with eggs or those that have had their eggs removed and lobster meat taken from undersized lobsters.

Action 2 is expected to directly affect how people in the U.S. trade for non-domestically harvested Caribbean spiny lobster, especially those who presently knowingly or unknowingly import female spiny lobsters with their eggs attached or removed and/or lobster meat taken from undersized lobsters. It should make those people who illegally import spiny lobster less confident in black market activity, which should cause them to abandon or at least greatly reduce such illegal trade. At the same time, those who legally import spiny lobsters should become more confident that their import activities support sustainable spiny lobster fisheries, which may alter their domestic marketing of imported Caribbean spiny lobster by promoting it as a product of sustainable trade and fishing practices. However, the amount of confidence lost by black market traders or gained by legal importers would also depend upon the first action because Action 2 alone would not discourage and reduce the importation of undersized lobsters. In combination, both Action 1 and Action 2 are expected to adversely affect cultural traditions and social networks of organized crime groups and communities that engage in the illegal importation of Caribbean spiny lobster. Furthermore, the same combination of actions is expected to beneficially affect cultural traditions and social networks of groups and communities that engage in the legal importation of Caribbean spiny lobsters.

Action 2 should indirectly affect people who buy, handle, transport, process, sell, and/or consume Caribbean spiny lobster after it has been imported by reducing the quantity of spiny lobster imported annually into the United States. The greatest indirect effect should be on those who knowingly or unknowingly buy, handle, transport, process, sell and/or consume illegally imported lobsters. In combination with Action 1, Action 2 should adversely affect cultural traditions and social networks of organized crime groups and communities that support, engage in, and benefit from the buying, handling, transports, processing, selling, and/or consumption of illegally imported spiny lobster. Also, in combination with the first action, this second action should increase the confidence of people, who receive Caribbean spiny lobster after importation, that the spiny lobsters that they are buying, handling, transporting, processing, selling and/or consuming are products of legal and sustainable trade and fishing practices.

Action 2 would also indirectly affect domestic Caribbean spiny lobster fishermen by increasing their confidence in Federal efforts to protect and sustain their fishing livelihoods. In turn, the increased confidence will support existing cultural traditions and social networks of domestic spiny lobster fishermen and communities.

6.2.4 Direct and Indirect Effects on the Administrative Environment

Implementation and enforcement of size limits and other conservation standards is an administrative action designed to benefit the biological environment of the target species. Therefore, the actions in this amendment will affect the administrative environment. Sections 5.3 and 5.4 discuss the affected administrative environments and the valued environmental components (VEC) of the administrative environment within the lobster fishery. This amendment will affect three VECs within the administrative environment: management, law enforcement, and industry.

Promulgating regulations is a management action that requires development, implementation, and monitoring of the regulations and their effects. This action is designed to improve the stock status of the Caribbean spiny lobster throughout its range, therefore it will be incumbent upon management to monitor the spiny lobster stock and ensure the regulations are having the desired effect on the stock. If the desired effects are not seen within the spiny lobster population, management will need to evaluate the regulations and adjust accordingly to achieve the purpose identified in the purpose and need section: improve stock status.

The other necessary component of regulations is the enforcement of those regulations. Without the efforts of law enforcement officials, no change in the lobster stock would be expected regardless of the regulations developed and implemented. Currently, the law enforcement environment is over-burdened in its attempts to stem the flow of undersized lobster entering the U.S. This burden is two-phased; one being the volume of lobster imports that enters the country (see Section 5.3) and the second is the lack of a strong regulation to enforce minimum conservation standards on imported lobsters. The volume of lobster imports is not likely to see a decrease as food resources throughout the world

are constantly stretched to support a growing population. Therefore, a stronger regulatory framework to work under will provide the only relief to law enforcement officials.

Currently, any cases developed by law enforcement agents must be done under the Lacey Act. This law requires the cooperation of foreign nations, which has proven difficult in the past for a number of reasons, including resources, political will power, and cooperation. NOAA's Office of Law Enforcement, Southeast Region, has made several significant Lacey Act cases involving undersized spiny lobster (w/ Honduras, Nicaragua, Bahamas, and an ongoing one with Brazil). These cases typically are criminal and are rather complex in nature due to the need for cooperation with foreign governments, poorly written foreign laws, and the millions of dollars of illegal proceeds. When investigating these significant lobster import cases, NOAA's Special Agents and Department of Justice prosecutors have frequently encountered defense attorneys and defendants that have attempted to undermine the foreign lobster laws of the harvesting countries in order to invalidate the Lacey Act and the U.S. efforts to apprehend those responsible. A U.S. minimum restriction applicable to spiny lobster imports would greatly assist law enforcement and federal prosecutors to stem the illegal and profitable flow of undersized imports into the U.S. markets. With the implementation of **Alternative 2**, **Alternative 3**, or **Alternative 4** law enforcement will have a more appropriate tool to stop or greatly reduce illegal import products from entering the country. Imports that do not meet the minimum conservation standards set forth in this amendment will be illegal and agents will be able to develop cases against those responsible for the imports without the need for foreign cooperation. Further, **Alternative 2** would be of greater value to law enforcement than **Alternative 3** or **Alternative 4**.

Alternative 2 would require imports to meet the minimum conservation standards of the existing domestic laws. For example, the possession/harvest of berried females is illegal in both domestic FMP's. By requiring imports to meet the conservation standards of the domestic rules, potential loopholes for harvesting domestic product and labeling it as imported product in an effort to circumvent domestic laws will be eliminated. This will eliminate the potential burden for law enforcement agents of disseminating local product from imported product as it all has to meet one set of standards. Therefore, **Alternative 2** would directly benefit law enforcement agents the most.

The third administrative environment effected by requiring imports to meet minimum conservation standards is that of the industry itself. Current industry practice sorts, packs, and sells lobster tails by weight category. These categories are generally whole ounce categories such as 4 ounce or 7 ounce tails which includes a range of weights. For example a 7 ounce would have tails ranging in weight from 6.5 to 7.5 ounces. Under either **Alternative 2, Alternative 3,** or **Alternative 4** no industry practice would have to change, other than the illegal activity seen in the documents identified in an earlier discussion and seen in Appendix A. Any mention of "lobster meat" would immediately be cause for concern by LE officials and thus, would not be expected to be seen in the industry practices.

The implementation of minimum conservation standards is expected to indirectly benefit the administrative environment. Industry is expected to indirectly benefit through the increased production of the lobster stock, thus meeting an ever growing demand globally for protein sources. Law enforcement will be able to focus on a wider range of enforcement issue without having to devote such an inordinate amount of time to developing cases against importers of illegal size lobster as they now have to do through the Lacey Act.

6.3 Comparison of Alternatives to Magnuson-Stevens Act National Standards

National Standard 1
This national standard states conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery. The intent of this amendment is to provide foreign countries a market incentive to enhance the sustainability of the Pan-Caribbean spiny lobster population by restricting imports and the possession of imported products. This restriction is designed to realize the long-term benefits of a properly managed resource, which will increase yield (and thereby achieve optimum yield) by allowing those individuals that would otherwise perish in the status quo fishery to reach a sexually mature size and contribute to the reproductive capability of the stock.

National Standard 2
This national standard requires conservation and management measures be based on the best scientific information available. The rationale in developing the amendment is based on numerous peer-reviewed scientific studies from the U.S., the U.S. Caribbean and other similar tropical reef fisheries. These resources were analyzed and discussed in Sections 4 and 6, and provide the basis for the decision and selection of preferred alternatives.

National Standard 3
This national standard requires to the extent practicable, an individual stock of fish shall be managed as a unit throughout its range, and interrelated stocks of fish shall be managed as a unit or in close coordination. Spiny lobsters are found from North Carolina to Brazil throughout the Caribbean. This amendment will implement a minimum import size in an attempt to protect juvenile lobsters throughout the Caribbean.

National Standard 4
This national standard requires conservation and management measures not discriminate between residents of different states. This amendment will apply only to imports and in no way assigns domestic harvest privileges among U.S. fishermen.

National Standard 5
This national standard requires conservation and management measures shall, where, practicable, consider efficiency in the utilization of fishery resources; except that no such

measure shall have economic allocation as its sole purpose. This amendment will only apply to imports and does not address the efficiency of the domestic fishery.

National Standard 6
This national standard requires conservation and management measures take into account and allow for variations among, and contingencies in, fisheries, fishery resources, and catches. This amendment will only apply to imports and does not address the management flexibility of the domestic fishery.

National Standard 7
This national standard requires conservation and management measures, where practicable, minimize costs and avoid unnecessary duplication. Currently there are no duplicative efforts for restricting imported spiny lobster products. Costs should be very minimal, as the requirements being implemented aim to remove undersized product from the marketplace, which can be quickly made up for by using only legal-sized lobsters.

National Standard 8
This national standard requires management and conservation measures take into account the importance of fishery resources to fishing communities by utilizing economic and social data in order to provide for the sustained participation of such communities and to the extent practicable, minimize adverse economic impacts on such communities. Social and economic analyses were performed for this document and are discussed in the appropriate sections. The intent of this amendment is to reduce importation of under-sized lobsters, thereby creating a sustainable fishery resource for these communities to continue utilizing; and any adverse domestic impacts are only expected for importers, not fishermen and communities.

National Standard 9
This national standard requires management and conservation measures minimize bycatch, to the extent practicable, and to the extent bycatch cannot be avoided, minimize mortality. The intent of this amendment is to eliminate undersize lobster from entering the marketplace. These undersize individuals would be considered bycatch in the continental fishery, thus an incentive for avoiding the capture of these individuals is a secondary effect of the amendment.

National Standard 10
This national standard requires management and conservation measures promote, to the extent practicable, the safety of human life at sea. A minimum import size has no effect on safety at sea.

6.4 Mitigation Measures

Environmental impacts identified in sections 6.1, 6.2, and the following section, 6.5, did not identify any adverse environmental impacts. Therefore, there are no mitigation measures to be carried out.

6.5 Cumulative Effects Analysis

As directed by NEPA, federal agencies are mandated to assess not only the indirect and direct impacts, but the cumulative impacts as well. NEPA defines a cumulative impact as "the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time" (40 C.F.R. 1508.7). Cumulative effects can either be additive or synergistic. A synergistic effect is when the combined effects are greater than the sum of the individual effects.

This section uses an approach for assessing cumulative effects that is based upon guidance offered by the CEQ publication "Considering Cumulative Effects" (1997). The report outlines 11 items for consideration in drafting a CEA for a proposed action.

1. Identify the significant cumulative effects issues associated with the proposed action and define the assessment goals.
2. Establish the geographic scope of the analysis.
3. Establish the timeframe for the analysis.
4. Identify the other actions affecting the resources, ecosystems, and human communities of concern.
5. Characterize the resources, ecosystems, and human communities identified in scoping in terms of their response to change and capacity to withstand stress.
6. Characterize the stresses affecting these resources, ecosystems, and human communities and their relation to regulatory thresholds.
7. Define a baseline condition for the resources, ecosystems, and human communities.
8. Identify the important cause-and-effect relationships between human activities and resources, ecosystems, and human communities.
9. Determine the magnitude and significance of cumulative effects.
10. Modify or add alternatives to avoid, minimize, or mitigate significant cumulative effects.
11. Monitor the cumulative effects of the selected alternative and adapt management.

The CEA for the biophysical environment will follow these 11 steps. Cumulative effects on the biophysical environment and the socio-economic environment will be analyzed separately.

1. Identify the significant cumulative effects issues associated with the proposed action and define the assessment goals.

In Section 5.0 (Description of the Affected Environment) the valued environmental components (VECs) that exist within the spiny lobster fishery environment are identified and the basis for their selection is established. This is associated with the completion of Step 1 in the CEQ's 11-step process. The VECs are as follows:

1. Managed Resource – Spiny Lobster (*P. argus*)

2. Non-target species
3. Habitat including EFH for *P. argus* and non-target species
4. Endangered and other protected resources
5. Human Communities

2. Establish the geographic scope of the analysis.

The analysis of impacts focuses on two different geographic areas. The first geographic area is related to the distribution and habitat of spiny lobster (Figure 5.2.1). Other affected VECs including non-target species, habitat, and endangered species are also within this geographic scope. The human community has a different geographic scope, which includes the range of the other VECs as well as the U.S. This community includes the fishing community which coincides with the managed species' geographic range, as well as the area where processing, importing, and shipping of frozen lobster tails takes place. Spiny lobster imports are known to arrive in the U.S. at ports from Los Angeles to Miami to New York. Additionally, with nationwide seafood restaurants that rely on these products, potentially all of the U.S. could be affected by any measures implementing minimum conservation standards for spiny lobster products.

3. Establish the timeframe for the analysis

The temporal scope of impacts of past and present actions for *managed resources*, *non-target species*, *habitat*, and *human communities* is primarily focused on actions that have occurred after FMP implementation (1982 for South Atlantic/Gulf; 1981 Caribbean). However, the primary temporal focus of this document coincides with the regionalization acknowledgement of the management of spiny lobster. Starting in 1999, Caribbean nations began to coordinate and cooperate on the management of spiny lobster while acknowledging that doing so was the only way to ensure successful management of the species. This amendment, in part, is a product of this region-wide effort to manage the spiny lobster stock throughout its range in the Caribbean and western Atlantic.

4. Identify other actions affecting the resources, ecosystems, and human communities of concern

As stated numerous times throughout the document, there is a Caribbean-wide initiative to manage the spiny lobster stock throughout its range through multi-national agreements, accords, and cooperation. Currently, a number of Caribbean nations are in the process or have already implemented minimum conservation standards in their fisheries regulations for spiny lobster. The actions in this amendment/EIS are consistent with the actions of these other nations; therefore, the other actions affecting the resources, ecosystems, and human communities identified in this amendment/EIS add no cumulative impact to what is being encountered already.

5. Characterize the resources, ecosystems, and human communities identified in scoping in terms of their response to change and capacity to withstand stresses.

All resources, ecosystems, and human communities identified in scoping and public input of this amendment/EIS are able to withstand the changes proposed in this document. The actions in this document are designed to increase the spawning stock biomass of the spiny

lobster population and increase the long-term potential yield in the fishery. As discussed in sections 6.1 and 6.2, these changes are expected to benefit all affected environments.

6. Characterize the stresses affecting these resources, ecosystems, and human communities and their relation to regulatory thresholds

The stresses identified in this amendment/EIS are full or over-exploitation of the spiny lobster stock. In order to achieve the regulatory threshold of achieving OY, as defined in the MSA, the spawning stock biomass of the species must be increased. This action is designed to achieve that increase in spawning stock biomass and therefore increase long-term potential yield which will allow the fishery to achieve OY.

7. Define a baseline condition for the resources, ecosystems, and human communities

Because of its economic significance to both commercial and artisanal fisheries, it is difficult to determine a baseline or "naturally occurring condition" because the species has always been exploited. However, a modified but ecologically sustainable condition would be one in which the population increases the spawning stock biomass to a point where the population reaches a condition near to one in which only natural mortality is seen. Though achieving a condition approaching only natural mortality is nearly impossible to do with a species fished and exploited as heavily as spiny lobster, an attempt to increase the spawning stock biomass will ensure the species continues to be ecologically sustainable. This in turn will allow communities dependent on the spiny lobster fishery to maintain that dependence.

8. Identify the important cause-and-effect relationship between human activities and resources, ecosystems, and human communities

The full- or over-exploitation of the spiny lobster stock is a direct effect of human efforts. Spiny lobster is important economically to both commercial and artisanal fisheries, which has led to this exploitation. The effect of the human action being undertaken in this amendment/EIS will be the recovery of the spawning stock and an increase in long-term yield in the fishery.

9. Determine the magnitude and significance of cumulative effects

Cumulative effects of this action have no more magnitude or significance beyond that of the actions in this amendment/EIS themselves. Those effects are intended to increase the spawning stock biomass and thereby increase the long-term potential yield in the fishery. Both of these effects are expected to be beneficial for the affected environments.

10. Modify and add alternatives to avoid, minimize, or mitigate significant cumulative effects

No significant cumulative effects were identified, so no changes are necessary to the alternatives. However, if significant effects are identified, after this document is completed, an additional amendment will be undertaken to develop framework procedures for management of spiny lobster including procedures for addressing imports. This framework will allow managers to quickly adapt management to achieve the goals

in the purpose and need if they are not achieved through this amendment or as new information becomes available.

11. Monitor the cumulative effects of the selected alternative(s) and adapt management

The effects of the selected alternatives will be monitored by two separate methods. The first is the monitoring conducted by law enforcement officials in their inspection and review of imports. If the selected alternatives are successful in achieving the secondary goal of reducing undersized lobster into the U.S., law enforcement officials should no longer see lobster tails that weigh below the 5 oz weight category.

The other way the effectiveness of this action will be monitored is through the productivity of the fishery. If this action is successful in achieving the stated purpose of increasing spawning stock biomass, increases in catch and catch per unit effort should be noticeable throughout the Caribbean. After this document is completed, an additional amendment will be undertaken to develop framework procedures for management of spiny lobster including procedures for addressing imports. This framework will allow managers to quickly adapt management to achieve the goals in the purpose and need if they are not achieved through this amendment or as new information becomes available.

6.6 Unavoidable Adverse Effects

Environmental impacts identified in sections 6.1, 6.2, and 6.5 did not identify any adverse effects.

6.7 Relationship Between Short-Term Uses and Long-Term Productivity

The intent of implementing minimum conservation standards is to increase long-term potential yield and increase the spawning stock biomass. The loss of short-term uses is negligible in comparison to the long-term benefits expected from the implementation of actions in this amendment/EIS. In fact, the short-term uses lost through the actions in this amendment/EIS will only be on the scale of a few days to a few weeks (Matthews, pers. Comm.). However, long-term productivity is expected to increase dramatically (see discussion in section 6.1.1 on reproduction at size).

6.8 Irreversible and Irretrievable Commitments of Resources

There are no irreversible or irretrievable commitments of agency resources proposed herein. The actions to impose minimum conservation standards are readily changeable by the Councils in the future. There may be some loss of immediate income (irretrievable in the context of an individual not being able to benefit from compounded value over time) to some sectors from the implementation of minimum conservation standards.

6.9 Any Other Disclosures

There are no additional disclosures regarding the proposed actions.

6.10 Evaluation of Significance Factors

The Council on Environmental Quality regulations implementing the National Environmental Policy Act and NOAA's Administrative Order (NAO) 216-6 require that decision-makers take into account both context and intensity when evaluating the significance of impacts resulting from a major federal action (40 CFR §1508.27; NAO 216-6, Section 6.01(b)). Evaluating significance with respect to context requires consideration of the local, regional, national, and/or global impacts of the action. Intensity refers to the severity of the impact, and is to be evaluated using specific criteria outlined at 40 CFR § 1508.27(b) and at NAO 216-6, Section 6.01(b). The key findings of the implementation of minimum conservation standards related to the significance of the impacts associated with the enhancement of the pan-Caribbean spiny lobster population follow. The findings are organized under the intensity criteria and include a consideration of the context in which the impacts occur.

1. Impacts may be both beneficial and adverse. A significant effect may exist even if the Federal agency believes that on balance the effect will be beneficial (40 CFR § 1508.27(b)(1); NAO 216-6, Section 6.01(b)(1)).

Implementing these minimum conservation standards will create an incentive for foreign nations harvesting spiny lobster to adhere to meet these standards in order to continue importing lobsters into their largest market, the U.S. In meeting these minimum conservation standards, nations throughout the Caribbean will be fostering the recovery and growth of the spiny lobster population (see Section 6.1.1 for a discussion of fecundity at size). This in turn will lead to a long-term increase in potential yield and the continued existence and possible expansion of the spiny lobster fishery throughout the Caribbean. Therefore, the impacts are beneficial to both the biological environment of spiny lobster and from producers (fishermen) to consumers in the human environment.

2. The degree to which the proposed action affects public health or safety (40 CFR § 1508.27(b)(2); NAO 216-6, Section 6.01(b)(2)).

The proposed actions are not likely to affect public health and safety. The implementation of minimum conservation standards will not affect harvest methods related to the safety of fishermen at sea, nor will it change the quality or safety of food.

3. Unique characteristics of the geographic area, such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas (40 CFR § 1508.27(b)(3); NAO 216-6, Section 6.01(b)(3)).

This action effects the fisheries for spiny lobster throughout its range in the Caribbean and western Atlantic. Although there are a number of unique characteristics to the

Caribbean basin, no effects on these areas is expected from the implementation of minimum conservation standards.

4. The degree to which the effects on the quality of the human environment are likely to be highly controversial (40 CFR § 1508.27(b)(4); NAO 216-6, Section 6.01(b)(4)).

The implementation of minimum conservation standards for spiny lobster products is not expected to be highly controversial. The potential impacts from the action are well known, and are not a source of uncertainty or related controversy.

5. The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks (40 CFR § 1508.2 7(b)(5); NAO 216-6, Section 6.01(b)(5)).

Minimum conservation standards such as size limits and animal condition restrictions have been used throughout the world in fisheries management. Therefore, their effect on the human environment is well known, and does involve any unique or unknown risks.

6. The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration (40 CFR § 508.27(b)(6); NAO 216-6, Section 6.01(b)(6)).

The use of minimum conservation standards have been used for many years in a variety of fisheries throughout the world. Restrictions on imported products have also been in existence for many years. Therefore, this action does not present any new or unusual issues for future consideration.

7. Whether the action is related to other actions with individually insignificant but cumulatively significant impacts. Significance exists if it is reasonable to anticipate a cumulatively significant impact on the environment. Significance cannot be avoided by terming an action temporary or by breaking it down into small component parts (40 CFR § 1508.27(b)(7); NAO 216-6, Section 6.01(b)(7)).

This action is not expected to have a cumulative impact on the environment as discussed in section 6.5.

8. The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources (40 CFR § 1508.27(b)(8); NAO 216-6, Section 6.01(b)(8)).

The implementation of minimum conservation standards is not expected to have any effect on districts, sites, highways, structures, or objects in or eligible for listing in the

National Register of Historic Places, or cause loss or destruction of significant scientific, cultural, or historical resources.

9. The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973 (40 CFR § 1508.27(b)(9); NAO 216-6, Section 6.01(b)(9)).

The effects on endangered or threatened species or their habitat has been explored throughout the document (sections 5.2, 6.1.1, 6.2.1, 9.4, 9.13.5, and 9.14). No adverse effect was found for endangered or threatened species in the analysis performed for these sections.

10. Whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment (40 CFR § 1508.27(b)(10); NAO 216-6, Section 6.01(b)(10)).

All actions proposed under the Magnuson Stevens Fishery Conservation and Management Act must abide by federal, state, and local regulations imposed to protect the environment. This action does not threaten any violations of federal, state, or local law.

11. Whether the action may result in the introduction or spread of a non-indigenous species (NAO 216-6, Section 6.01(b)(11)).

The implementation of minimum conservation standards on an indigenous species will neither introduce nor spread non-indigenous species. Even if "market replacements" are brought in to supplement any reduction in spiny lobster imports, those replacements will be frozen, processed animals.

7.0 REGULATORY IMPACT REVIEW

7.1 Introduction

The NMFS requires a Regulatory Impact Review (RIR) for all regulatory actions that are of public interest. The RIR does three things: (1) it provides a comprehensive review of the level and incidence of impacts associated with a regulatory action; (2) it provides a review of the problems and policy objectives prompting the regulatory proposals and an evaluation of the major alternatives which could be used to solve the problem; and (3) it ensures that the regulatory agency systematically and comprehensively considers all available alternatives so that the public welfare can be enhanced in the most efficient and cost effective way.

The RIR also serves as the basis for determining whether any proposed regulations are a "significant regulatory action" under certain criteria provided in Executive Order 12866 (E.O. 12866) and whether the approved regulations will have a "significant economic

impact on a substantial number of small business entities" in compliance with the Regulatory Flexibility Act of 1980 (RFA).

7.2 Problems and Objectives in the Fishery

The purpose and need, issues, problems, and objectives of the proposed Amendment are presented in Section 1.2 and are incorporated herein by reference. According to the Western Central Atlantic Fishery Commission, international trade of illegally harvested Caribbean spiny lobster is a serious problem, and especially problematic is the trade of lobsters whose sizes are below the legal minimum size standards of the country of origin. The U.S. is the largest importer of Caribbean spiny lobster, and existing regulations are insufficient to prevent the illegal importation of spiny lobster that is illegally harvested in its country of origin. U.S. law enforcement's ability to screen imports for compliance with the Lacey Act is compromised by vague foreign minimum harvest-size and other laws that are intended to protect Caribbean spiny lobster. By implementing uniform importation standards, law enforcement's ability to effectively prevent the importation of undersized and berried lobsters will be improved. This in turn may help protect the species both in the U.S. and in the Caribbean as a whole.

7.3 Methodology

This RIR assesses management measures from the standpoint of determining the resulting changes in costs and benefits to society. These proposed actions would impose import restrictions to eliminate illegal trade of Caribbean spiny lobster, and as such, its largest cost would be the losses of revenues and profits incurred by individuals who illegally import Caribbean spiny lobsters by bringing into the U.S. lobsters that violate the harvest and trade laws of the countries of origin. Similarly, the largest secondary cost would be the losses of revenues and profits by individuals who buy illegal lobsters from black-market importers and losses of incomes by employees of such importers.

These proposed actions may also reduce some legal imports of Caribbean spiny lobster. Hence, these actions may reduce the revenues and profits earned by some who legally import Caribbean spiny lobster and reduce the incomes of those employed by those legal importers. However, the bulk of the costs should be the losses of illegal revenues, profits and incomes that derive from black-market transactions.

To the extent practicable, the net effects of the proposed measures should be stated in terms of producer and consumer surplus, changes in profits, and employment in the direct and support industries. However, most of the costs are expected to be incurred by black-market importers and there is insufficient information to quantify possible changes to legal imports and associated economic variables. Therefore, the impacts of the proposed action are described in terms of qualitative changes in costs and benefits that derive from possible decreases in legal, not illegal, imports.

7.4 Description of the Fisheries

The Caribbean spiny lobster fishery is described in Section 5.3, and is incorporated herein by reference.

7.5 Impacts of the Management Alternatives

7.5.1 Action 1: Minimum Conservation Sizes of Spiny Lobster (Panulirus argus) Import Products into the United States

Three alternatives are considered for this action: a status-quo alternative and two alternatives that impose import-size standards.

7.5.1.1 Alternative 1

This is the status quo alternative, and, as such, would not impose minimum import-size standards for Caribbean spiny lobster. Current regulations are insufficient to prevent the illegal importation of Caribbean spiny lobster that is illegally harvested in its country of origin because U.S. law enforcement's ability to screen imports for compliance with the Lacey Act is compromised by those who intentionally falsify the country of origin and vague harvest standards of the country of origin.. Without improved methods of detection, illegal importation of undersized lobsters will continue and remain a serious threat to the long-run biological and economic success of this species.

The U.S. is the largest importer of Caribbean spiny lobster and illegal international trade of Caribbean spiny lobster has been and remains to be a serious problem. From 2002 through 2007, total U.S. imports of frozen rock lobster and other sea crawfish (HS 0306110000: *Palinurus* spp., *Panulirus* spp. and *Jasus* spp.) averaged 12,374.2 metric tons with a value of about $355.5 million, annually. The top 5 countries of origin of those imports by volume (metric tons) are Brazil, The Bahamas, Australia, Honduras and Nicaragua, who collectively represent about 68 percent of the total volume of those imports. Those same countries account for about 78 percent of the total dollar value of those imports. Of the top 10 countries of origin by volume of frozen rock lobster and other sea crawfish imports, 6 of those countries (Brazil, The Bahamas, Honduras, Nicaragua, Columbia and Belize) export Caribbean spiny lobster to the United States. See Table 7.5.1.1.

The Western Central Atlantic Fishery Commission (WECAFC) has reported that harvesting and trading of Caribbean spiny lobster below the minimum legal size is a serious problem, especially in Brazil. According to a 2002 report for the Second Workshop on the Management of Caribbean Spiny Lobster Fisheries in the WECAFC Area, during the 2001 lobster season in Brazil, 8.2 tons of lobsters from a 10-ton sample were under the minimum legal size. If that sample is indicative of lobsters imported into the U.S. from Brazil, then 82 percent ($62.1 million) of the $75.7 million of rock lobster imported annually from Brazil is illegal. See Table 7.5.1.1.

The top 5 countries of origin of non-frozen rock lobster and other sea crawfish (HS 0306210000) by volume are Mexico, Australia, China, Taiwan and United Kingdom.

See Table 7.5.1.2 next page. Mexico is the only one among the top 10 countries of origin that harvests Caribbean spiny lobster. Among all countries of origin of non-frozen rock lobster the following harvest Caribbean spiny lobster: Mexico, Nicaragua, Turks and Caicos Islands, Honduras, Costa Rica, Venezuela, Guatemala, and Jamaica.

Table 7.5.1.1. Countries of Origin of U.S. Imports of Frozen Rock Lobster and Other Sea Crawfish (HS 030611000).[1] *Source*: USDA, Foreign Agricultural Service.

	Values in 1000 Dollars						
Country of Origin	2002	2003	2004	2005	2006	2007	*6-Year Ave*
Brazil	74,334	70,207	79,681	74,879	76,959	78,371	*75,739*
Australia[2]	44,830	62,444	65,060	70,341	66,205	78,928	*64,635*
Bahamas, The	51,016	61,427	53,333	44,363	45,383	45,288	*50,135*
Honduras	40,600	36,388	42,731	44,059	41,025	47,942	*42,124*
Nicaragua	41,227	36,692	40,144	32,901	42,375	41,266	*39,101*
South Africa, Repub.	11,573	13,053	16,209	18,209	18,525	19,930	*16,250*
United Arab Emirates	8,647	11,707	11,638	10,673	9,816	9,762	*10,374*
Columbia	10,410	8,631	8,643	7,219	9,368	7,929	*8,700*
Belize	8,002	7,727	7,648	6,998	6,595	7,959	*7,488*
Mexico	12,282	8,985	4,524	4,470	3,814	2,161	*6,039*
Oman	8,603	9,609	4,336	2,947	480	0	*4,329*
China, Peoples Rep.	357	3,217	4,683	3,099	4,763	6,326	*3,741*
Jamaica	4,489	5,298	3,786	3,741	1,629	2,033	*3,496*
New Zealand	3,022	3,336	2,908	3,490	3,946	2,350	*3,175*
Panama	3,249	2,376	2,156	3,203	2,101	2,603	*2,615*
Thailand	2,582	3,024	2,016	1,503	2,716	3,074	*2,486*
St. Helena (Br. W. Af)	2,818	4,660	2,859	1,372	972	1,974	*2,443*
Dominican Republic	377	175	535	2,642	4,205	2,882	*1,803*
Taiwan	1,499	2,086	3,510	1,311	1,331	888	*1,771*
Turks & Caicos Isl.	599	477	1,740	2,433	2,579	2,346	*1,696*
Chile	872	408	437	1,776	737	1,642	*979*
Papua New Guinea	1,017	1,276	1,053	1,055	493	241	*856*
Ecuador	1,412	489	730	397	185	408	*604*
Haiti	2,054	900	319	0	0	0	*546*
Spain	16	151	958	705	449	683	*494*
Turkey	0	0	0	2,885	0	0	*481*
Costa Rica	654	346	375	324	276	460	*406*
India	941	609	12	15	0	218	*299*
Namibia	440	303	147	347	234	217	*281*
El Salvador	678	130	637	113	11	0	*262*
Sri Lanka	323	154	697	257	55	25	*252*
Indonesia	39	61	72	30	0	1,140	*224*
Vietnam	0	6	128	0	561	603	*216*
Leeward-Windward Is.[3]	55	77	486	489	11	5	*187*
Tanzania, United Rep.	0	0	240	660	179	0	*180*
Iceland	20	151	585	295	23	0	*179*
Guatemala	297	313	177	240	21	0	*175*
French Ind. Ocean TE[2]	0	0	0	915	0	0	*153*
Peru	12	19	4	0	0	610	*108*

	Values in 1000 Dollars						
Country of Origin	2002	2003	2004	2005	2006	2007	*6-Year Ave*
Canada	0	252	77	204	0	0	*89*
Mozambique	0	18	323	11	73	0	*71*
Mauritius	355	0	0	0	0	0	*59*
Venezuela	0	119	88	0	0	95	*50*
France[2]	139	150	0	4	0	0	*49*
Netherlands	14	32	60	66	83	0	*43*
Sweden	0	0	105	43	0	0	*25*
Russian Federation	109	0	0	0	0	0	*18*
Japan	0	0	0	27	16	39	*14*
Guyana	0	0	37	0	0	0	*6*
British Pacific Is.[2]	0	0	36	0	0	0	*6*
United Kingdom	10	20	0	0	3	0	*6*
Malaysia	0	15	0	0	0	12	*5*
Phillipines	0	0	26	0	0	0	*4*
Korea, Republic of	0	0	25	0	0	0	*4*
Other Pacific Island[2]	0	0	0	0	22	0	*4*
Belgium-Luxembourg[2]	19	0	0	0	0	0	*3*
Trinidad & Tobago	0	0	13	0	0	0	*2*
French West Indies[2]	13	0	0	0	0	0	*2*
Kenya	3	0	0	0	0	0	*1*
Lithuania[2]	0	3	0	0	0	0	*1*
TOTAL	**340,084**	**357,602**	**367,985**	**350,713**	**348,220**	**370,408**	**355,835**

1. Includes all *Palinurus* spp., *Panulirus* spp. and *Jasus* spp.
2. Includes component countries identified by U.S. Customs.

Table 7.5.1.2. Countries of Origin of U.S. Imports of Not Frozen Rock Lobster and Other Sea Crawfish (HS 030621000), 2002 - 2007.[1] *Source*: USDA, Foreign Agricultural Service.

Country of Origin	Ave. MT	Ave $1000s	Trading Partner	Ave. MT	Ave $1000s
MEXICO	122	2086	MALAYSIA	0.6	6
AUSTRALIA[2]	10.0	370	LEEWARD-WINDWARD ISL[2]	0.5	4
CHINA, PEOPLES REPUB	5.5	27	FRANCE[2]	0.3	33
TAIWAN	4.6	51	GUATEMALA	0.3	9
UNITED KINGDOM	3.3	40	UKRAINE	0.3	2
NICARAGUA	3.1	70	ARMENIA, REPUBLIC OF	0.2	1
CANADA	2.8	35	JAMAICA	0.2	7
TURKS AND CAICOS ISL	2	52	BELGIUM-LUXEMBOURG[2]	0.1	0
NEW ZEALAND[2]	1.8	44	CHILE	0.1	3
GERMANY	1.5	12	SOUTH AFRICA, REPUBL	0.1	1
ECUADOR	1.2	10	SPAIN	0.1	1
HONDURAS	1	10	COTE D'IVOIRE	0.1	1
NIGERIA	0.93	70	NORWAY	0.05	0
COSTA RICA	0.8	14	DENMARK	0	1
VENEZUELA	0.8	4	*TOTAL*		2,895

1. Includes all *Palinurus* spp., *Panulirus* spp. and *Jasus* spp.
2. Countries that include component countries.

The lucrative legal and illegal markets for this species make overfishing a reality in Brazil, Columbia, Dominican Republic, Honduras, Jamaica, and Nicaragua. See Table 7.5.1.3.

Overexploiting Caribbean spiny lobster stocks in foreign fisheries could jeopardize the abundance and structure of U.S. stocks because the larval recruitment of U.S. stocks is dependent on the reproductive potential of stocks managed by other countries. The potential long-term adverse impact of the status-quo alternative is smaller domestic stocks of Caribbean spiny lobster and smaller commercial and recreational harvests because larval recruitment of U.S. stocks are dependent upon the reproductive potential of stocks managed by other countries. Florida commercial and recreational lobster fishers, as well as lobster dealers and others who derive economic benefits from Caribbean spiny lobster fishing in Florida, would experience the greatest long-term cost.

Table 7.5.1.3. Estimated status of national populations of Caribbean spiny lobster of WECAFC countries. *Source*: WECAFC 2007.

Status of Stock	Countries and Territories
Under-exploited	Venezuela (some areas)
Fully-exploited or stable	Antigua & Barbuda, Belize, Costa Rica, Cuba, Mexico, Puerto Rico & U.S. Virgin Islands, Turks & Caicos, USA (Florida), Venezuela (some areas)
Over-exploited	Nicaragua, Jamaica, Dominican Republic, Brazil, Columbia, Honduras
Unknown	Bahamas, Guadeloupe, Haiti, Martinique, other Less Antilles countries

In 2006, Florida landings of Caribbean spiny lobster valued about $27 million, and from 1997 through 2006 averaged about $23.5 million annually. See Table 7.5.1.4. Florida commercial fishermen catch Caribbean spiny lobster to be landed and used as bait.

Fishermen use the live undersized lobsters, known as "shorts", to attract Caribbean spiny lobster into traps. See Table 7.5.1.5.

Table 7.5.1.4. Florida Landings of Caribbean Spiny Lobster, 1997 – 2006.

Year	$ Landings
1997	29,098,538
1998	21,941,515
1999	32,549,303
2000	28,191,680
2001	17,023,338
2002	20,832,868
2003	18,871,358
2004	22,803,269
2005	16,691,634
2006	27,329,248

Year	$ Landings
Ave	23,533,275

Table 7.5.1.5. Pounds of Caribbean Spiny Lobster Landed in Florida, from 1978-79 through 2003-04 Fishing Seasons. *Source*: FL Fish & Wildlife Conservation Commission.

Fishing Season	Recreational Landings	Commercial Landings	Bait Landings	Total Landings	% Recreational	% Commercial
1978-79	1,032,818	4,712,160	1,489,053	7,234,031	14.28%	65.14%
1979-80	1,332,146	6,384,958	1,766,902	9,484,006	14.05%	67.32%
1980-81	1,653,054	5,074,434	1,450,653	8,178,141	20.21%	62.05%
1981-82	1,438,200	4,673,563	1,389,579	7,501,342	19.17%	62.30%
1982-83	1,487,598	5,192,189	1,440,506	8,120,293	18.32%	63.94%
1983-84	1,114,641	3,516,013	1,205,460	5,836,114	19.10%	60.25%
1984-85	1,218,015	5,077,610	1,458,513	7,754,138	15.71%	65.48%
1985-86	1,176,734	4,586,067	932,611	6,695,412	17.58%	68.50%
1986-87	1,098,768	3,955,795	1,321,591	6,376,154	17.23%	62.04%
1987-88	1,305,427	4,657,778	521,939	6,485,144	20.13%	71.82%
1988-89	1,743,948	6,381,104	499,015	8,624,067	20.22%	73.99%
1989-90	1,718,020	6,650,042	587,191	8,955,253	19.18%	74.26%
1990-91	1,496,810	5,154,258	1,061,504	7,712,572	19.41%	66.83%
1991-92	1,990,623	5,784,865	662,668	8,438,156	23.59%	68.56%
1992-93	1,242,648	4,567,343	565,406	6,375,397	19.49%	71.64%
1993-94	1,787,054	4,662,274	422,617	6,871,945	26.01%	67.85%
1994-95	1,751,298	6,229,495	492,439	8,473,232	20.67%	73.52%
1995-96	1,673,330	5,666,412	513,035	7,852,777	21.31%	72.16%
1996-97	1,778,889	6,646,664	583,692	9,009,245	19.75%	73.78%
1997-98	2,186,058	6,796,320	621,140	9,603,518	22.76%	70.77%
1998-99	1,185,036	4,522,375	275,976	5,983,387	19.81%	75.58%
1999-00	2,292,304	6,581,944	498,148	9,372,396	24.46%	70.23%
2000-01	1,848,447	4,469,964	423,038	6,741,449	27.42%	66.31%
2001-02	1,091,022	2,307,262	323,096	3,721,380	29.32%	62.00%
2002-03	1,223,197	3,818,081	347,857	5,389,135	22.70%	70.85%
2003-04	1,142,960	3,419,929	329,668	4,892,557	23.36%	69.90%

In 2003, recreational landings of Caribbean spiny lobster were about 1.1 million pounds, and sales of recreational lobster fishing permits exceed 100,000 annually. Sharp et al. (2005) estimate approximately $24 million was spent on recreational lobster fishing in the Florida Keys from the opening of the recreational season through the first Monday in September in 2001. Fishers who resided outside the Keys accounted for about $22 million (92 percent) of the total monies spent on recreational lobster fishing in the Keys. In addition to the regular recreational season there is the Special Two-Day Sport Season, which occurs on the last consecutive Wednesday and Thursday in July. Those two days are the busiest boating days of the year in the County. From the 1993 through 2001 Special Two-Day Sport Seasons, the average annual number of spiny lobsters caught in Monroe County represents about 66 percent of the annual statewide total.

7.5.1.2 Alternative 2 of Action 1

Part A: No one in the U.S. would be allowed to import a Caribbean spiny lobster (*Panulirus* argus):

1. 3.0 inches (7.62 cm) or less carapace length if the animal is whole.
2. Less than 5.5 inches (13.97 cm) tail length if only the tail is present.
3. Less than 5 ounces (5 ounces is defined as a tail that weighs 4.2 to 5.4 ounces).

Part B: No one in Puerto Rico or the U.S. Virgin Islands would be allowed to import a Caribbean spiny lobster (*Panulirus* argus) that is:

1. Less than 3.5 inches (8.89 cm) carapace length if the animal is whole.
2. Less than 6.2 inches (15.75 cm) tail length if only the tail is present.
3. Less than 5. 9 ounces if want a tail weight (5.9-ounce tail would be considered to be a 6-ounce tail, therefore 6-ounce tails would weight 5.9 to 6.4 ounces).

Under this alternative, tail weight would not be the only measurement used by law enforcement inspectors to determine if an individual tail or whole lobster is legal or not. Individual tails or lobsters that are inspected and do not meet the tail weight requirement, but have the appropriate carapace length or tail length measurement would be considered legal. In other words, any whole lobster or separated tail that meets or exceeds the carapace-length standard or the tail-weight standard would be a legally imported Caribbean spiny lobster, whether it satisfies the tail-weight standard or not. Consequently, to be judged as illegal, a whole lobster would not meet or exceed the tail-weight standard, tail-length standard or carapace-length standard, and a tail would not meet or exceed the tail-weight standard or tail-length standard.

7.5.1.2.1 Part A of Alternative 2 of Action 1

Many countries that harvest Caribbean spiny lobster have minimum harvest-size standards. See Table 7.5.1.6.

The following countries and territories have reported harvesting Caribbean spiny lobster during the period from 1962 through 2003, according to the FAO: Anguilla, Antigua and Barbuda, The Bahamas, Belize, Bermuda, Brazil, British Virgin Islands, Columbia, Costa Rica, Cuba, Dominican Republic, Grenada, Haiti, Honduras, Martinique, Mexico, Grenada, St. Kitts and Nevis, St. Lucia, Saint Vincent and Grenadines, Turks and Caicos, Nicaragua, Puerto Rico, Saint Kitts and Nevis, Trinidad and Tobago, Turks and Caicos Island, U.S., U.S. Virgin Islands, and Venezuela (Bolivarian Republic of). From 2002 through 2007 the following 17 countries that harvest Caribbean spiny lobster were the countries of origin of rock lobster imported into the U.S.: Bahamas, Belize, Brazil, Columbia, Costa Rica, Dominican Republic, Guatemala, Guyana, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Trinidad and Tobago, Turks and Caicos Islands, and Venezuela. See Tables 7.5.1.1 and 7.5.1.2. This analysis initially presumes any imported spiny lobster that could be affected by this alternative would originate from one of the above 17 countries.

However, if any past shipments of spiny lobster remained within U.S. Customs jurisdiction until shipped out of a Florida port and did not come into possession in

Florida, they were not required to be in compliance with Florida size standards. Therefore, the NMFS encourages importers of spiny lobster and others to provide comment on the assumption that past Caribbean spiny lobster imports that entered the country at a Florida port came to be possessed in Florida.

Table 7.5.1.6. Foreign Minimum Harvest-Size Standards for Caribbean Spiny Lobster. *Source*: FAO.

Country[1]	Carapace Length (CL)	Tail Length (TL)	Tail Weight (TW)	Satisfies CL for Part A	Satisfies TL for Part A	Satisfies TW for Part A	Satisfies CL for Part B	Satisfies TL for Part B	Satisfies TW for Part B
Anguilla	9.5 cm			Yes			Yes		
Antigua & Barbuda	9.5 cm			Yes			Yes		
Bahamas	***8.3 cm***	***14 cm***	***4.5 oz.***	***Yes***	***Yes***	***Yes***	***No***	***No***	***No***
Barbados									
Belize	***7.62 cm***	***11.3 cm***	***4 oz.***	***No***	***No***	***No***	***No***	***No***	***No***
Bermuda	9.2 cm		12 oz.	Yes		Yes	Yes		Yes
Brazil	***7.5 cm***	***13.0 cm***		***No***	***No***	***No***	***No***	***No***	***No***
British Virgin Islands	8.9 cm			Yes			Yes		
Columbia-San Andres	***8.0 cm***	***14.0 cm***		***Yes***	***Yes***		***No***	***No***	
Columbia-Guajira	***6.9 cm***	***21.0 cm***		***No***	***Yes***		***No***	***Yes***	
Costa Rica									
Cayman Islands		15.2 cm			Yes			No	
Dominica									
Dominican Republic	***8.1 cm***	***12.0 cm***		***Yes***	***No***		***No***	***No***	
Grenada	9.5 cm		7.1 oz.	Yes		Yes	Yes		Yes
Guadaloupe									
Guatemala									
Guyana									
Haiti[2]									
Honduras	***8.0 cm***	***14.5 cm***	***5 oz.***	***Yes***	***Yes***	***Yes***	***No***	***No***	***No***
Jamaica	***7.62 cm***			***No***			***No***		
Martinique	6.0 cm			No			No		
Mexico	***7.5 cm***	***13.5 cm***		***No***	***No***		***No***	***No***	
Monserrat									
Nicaragua	***7.5 cm***	***13.5 cm***	***5 oz.***	***No***	***No***	***Yes***	***No***	***No***	***No***
Panama									
St. Kitts & Nevis	9.5 cm			Yes			Yes		
St. Lucia	9.5 cm		12 oz.	Yes		Yes	Yes		Yes
Saint Vincent & the Grenadines	9.5 cm			Yes			Yes		
Turks and Caicos	***8.3 cm***		***7 oz.***	***Yes***		***Yes***	***No***		***Yes***
Trinidad & Tobago									
Venezuela	***12.0 cm***			***Yes***			***Yes***		

1. Countries listed in bold and italicized are countries of origin of U.S. imports of rock lobster from 2002 through 2007.
2. Has a whole weight standard of 5 ounces.

The following countries of origin have a carapace size standard that exceeds 3 inches (7.62 cm): Bahamas (8.2 cm), Columbia-San Andres (8.01 cm), Dominican Republic (8.05 cm), Honduras (8.01 cm), Turks and Caicos Islands (8.3 cm), and Venezuela (12.0 cm) have a carapace size standard that exceeds 3 inches. It is expected that spiny lobsters with a carapace size greater than 3 inches correspond to tail lengths and weights that comply with Part A, and, consequently, Part A is not expected to affect legal imports from the Bahamas, Dominican Republic, Honduras, Turks and Caicos Islands and Venezuela, or those lobsters legally harvested in Columbia's San Andres region.

Of the countries of origin with a tail-length size standard, the following three have a standard that equals or exceeds the 5.5-inch (14.0 cm) standard of Part A: Bahamas (14.0 cm), Columbia-San Andres (14.0 cm), Columbia-Guajira (21.0 cm), and Honduras (14.5 cm). It is expected that legal imports from countries with a tail-length size standard equal or greater than 5.5 inches comply with the tail weight and carapace length standards imposed by Part A. Therefore, legal imports of spiny lobster from the Bahamas, Columbia and Honduras are not expected to be affected by Part A of this alternative.

Five of the countries of origin have a tail-weight size standard and of those five, the following three have a standard that meets or exceeds 4.2 ounces (119.1 grams): Honduras (5 oz.), Nicaragua (5 oz.), and Turks and Caicos Islands (7 oz.). See Table 7.5.1.6. Legal imports from these 3 countries should not be affected by Part A of this alternative.

It follows from the previous three paragraphs that legal imports from the following 7 countries of origin should not be affected by Part A because of their size standards: Bahamas, Columbia, Dominican Republic, Honduras, Turks and Caicos Islands, Nicaragua, and Venezuela. It also follows that some legal imports from Belize, Brazil, Costa Rica, Guatemala, Guyana, Haiti, Jamaica, Mexico, Panama, and Trinidad and Tobago could be affected by Part A of this alternative. In the past 6 years, Guyana and Trinidad and Tobago have been the country of origin only once and there have been no imports of rock lobster from these countries since 2004. See Table 7.5.1.1.

As stated previously, the harvest and international trade of Caribbean spiny lobsters less than the legal minimum size is a serious problem. As the U.S. is the largest importer of spiny lobster, this alternative would significantly reduce black-market trade of this species.

Brazil (7.5 cm) and Mexico (7.46 cm) have a carapace size standard that is less than 3 inches (7.62 cm). Panama is reported to have a size limit; however, a preliminary review of Panama fishing laws did not find such a standard. Costa Rica, Guatemala, Guyana, Haiti, and Trinidad and Tobago have no carapace-size standard. In September 2006, the Working Group on Caribbean spiny lobster of the Western Central Atlantic Fishery Commission (WECAFC) met in Merida, Mexico, to attend the Regional Workshop on the Assessment and Management of Caribbean Spiny Lobster. The primary objective of the workshop was to review and update the status of Caribbean spiny lobster at national and international levels to seek international agreement on strategies to address

management problems. Among the workshop's participants were representatives from Costa Rica, Haiti, and the Caribbean Regional Fishery Mechanism (CRFM) who agreed to a minimum carapace-length standard of 7.4 cm (2.91 inches). Guyana and Trinidad and Tobago are members of the Caribbean Regional Fishery Mechanism, and it is expected that those two countries will establish a carapace-size standard equal to or greater than 7.4 cm.

Belize (11.3 cm), Brazil (13.0 cm) and Mexico (13.5 cm) have tail-length standards less than required by Part A (14.0 cm), and the following countries of origin have no tail-length standard: Costa Rica, Guatemala, Guyana, Haiti, Jamaica, and Trinidad and Tobago. Belize has a tail-weight standard (4.0 oz.) less than the 4.2 oz. minimum established by Part A and Brazil, Costa Rica, Guatemala, Guyana, Haiti, Jamaica, Mexico, and Trinidad and Tobago have no tail-weight standards.

Florida law (*Florida Administrative Code* 68B-24.003(1)) states no person shall harvest or possess any spiny lobster with a carapace measurement of 3 inches or less or, if the tail is separated from the body, a tail measurement less than 5.5 inches. This analysis presumes that any spiny lobster that enters the country at a Florida port comes to be possessed in Florida. Consequently, that assumption means any spiny lobster that enters the country at a Florida port must already comply with the 3-inch carapace length and 5.5-inch tail length standards that would be imposed by Part A. It is anticipated that any lobster that meets the 3-inch carapace and 5.5-tail length standards would satisfy the tail weight standard, and comply with Part A as a whole. Therefore, this analysis presumes any spiny lobster that has entered and continues to enter the country at a Florida port becomes a possession in Florida and is not affected by Part A.

All rock lobster imports from Haiti and Guatemala historically have entered at a Florida port, and thus, this analysis presumes no legal imports of spiny lobster from Haiti or Guatemala would be affected by this alternative. Imports of rock lobster from Belize, Brazil, Costa Rica, Jamaica, Mexico and Panama enter the U.S. at both Florida and non-Florida ports. About 98 percent of the pounds and total dollar value of rock lobster annually imported from Jamaica enter at a Florida port. See Table 7.5.1.7. These rock lobster imports include all *Palinurus* species, *Panulirus* species and *Jasus* species.

Table 7.5.1.7. Percent of Imports of Frozen and Non-frozen Rock Lobster (HS 030611000 and 0306210000) from Belize, Brazil, Costa Rica, Jamaica, Mexico and Panama, 2006 – 2007, into Florida and Other State Ports.[1, 2]

	% FL Ports		% Non-FL Ports		Annual Ave 1000s $	
Country	Pounds	Dollars	Pounds	Dollars	Total All Ports	Non-FL Ports
Belize	31%	29%	69%	71%	7,488	5,316
Brazil[3]	4%	6%	96%	94%	75,739	71,952
Costa Rica	67%	75%	33%	25%	420	105
Jamaica	98%	98%	2%	2%	3,503	70
Mexico	46%	37%	54%	63%	8,125	5,119

Panama	1%	1%	99%	99%	2,615	2,589
Total					97,890	85,150

1. These imports include *Palinurus* species, *Panulirus* species and *Jasus* species.
2. These imports include both legal and undetected illegal imports.
3. If a 2001 sample of Brazilian lobster operations is representative of imports of rock lobster from that country, then 82 percent of the imports from Brazil are illegal.

The above countries harvest multiple species of rock lobster. For example, Mexico harvests and trades four species and Brazil and Jamaica two species each. Hence, imports of Caribbean spiny lobster from the above countries represent part, not the entirety, of the rock lobster imported from these countries.

It is illegal to harvest spiny lobsters with a carapace length less than 7.62 cm (76.2 mm) in Jamaica and Belize. As stated in section 4.1, it is estimated that 84 percent of those spiny lobsters with a 3-inch (7.62-cm) tail length would meet the tail length or tail weight requirement of Part A. Consequently, if all of the historical legal spiny lobster imports from these countries were no larger than their countries' minimum legal size, 84 percent of the spiny lobsters legally imported from Jamaica and Belize would not be affected by Part A. It is more likely, however, that many of the spiny lobsters legally imported from these countries exceed the minimum legal size. Therefore, it is more likely that less than 16 percent of the spiny lobsters legally imported from Jamaica and Belize would be affected by Part A. Those spiny lobsters currently imported legally but under the size required by Part A would have to remain in the water and grow at least another tenth of a millimeter before being harvested in either of the above two countries. It is similarly expected that spiny lobsters which are presently and legally exported whole or in part to the U.S. from Belize, Brazil, Costa Rica, Jamaica, Mexico and Panama and do not satisfy Part A requirements would have to remain in the water for no more than one additional molt.

Physical growth of lobsters is achieved through molting. An adult lobster molts an average of two and a half times each year. The entire molting event takes approximately ten minutes. The new exoskeleton will take about 12 days from the start of the molt to harden such that it cannot be dented; however the shell is not completely formed until the 28th day (Williams, 1984). In most countries harvesting molting or soft shelled lobsters is prohibited. This analysis presumes the average spiny lobster completes a molting cycle (from molt to hardened shell) every 4.8 months (12 months/2.5 molts) and at least once every lobster season.
This analysis assumes any spiny lobster that is currently legally imported into the U.S., but does not meet Part A size standards, would have to remain in the water an additional 4.8 months. Therefore, this alternative may be better understood as eliminating the illegal importation of spiny lobster and delaying, not prohibiting, some of the legal importation of a spiny lobster. The delay has advantages to both lobster fishermen and U.S. importers because larger lobsters have greater market value, and in the long run, the economic benefits of a sustainable resource should exceed the economic costs.

The bulk of the economic costs of this alternative would be the losses of revenues and profits associated with the illegal importation of Caribbean spiny lobster and the losses of income derived from that illegal activity. Decreases in revenues and profits earned from

presently legal importation of spiny lobster would also occur; however, it is anticipated that most legal imports would not be affected by this alternative. The economic benefits of this alternative would be larger minimum-sized imported lobsters with greater market value and domestic and foreign revenues, profits and incomes that derive from a biologically and economically improved resource.

7.5.1.2.2 Part B of Alternative 2 of Action 1

Title 12, Chapter 9A, Section 319(b) of the *Virgin Island Code* (V.I.C.) states, "No person, firm or corporation shall take or have in his possession at any time, regardless of where taken, any spiny lobster (crawfish or crayfish) of the species *Panulirus argus* unless such spiny lobster ... shall have a carapace length of more than three and one-half (3 ½) inches". This existing law is more stringent than with the minimum carapace length restriction imposed by Part B. Thus, the proposed carapace restriction of Part B has no effect on imports into the U.S. Virgin Islands. A spiny lobster with a carapace length greater than 3.5 inches is expected to have a tail length and tail weight that meets the tail length and weight restrictions that would be imposed by Part B. Consequently, this analysis expects this alternative would have no effect on imports of spiny lobster into the U.S. Virgin Islands. U.S. Customs data shows there were no imports of rock lobster (frozen or not) into the U.S. Virgin Islands from 2001 through 2007, which further supports the conclusion that this alternative would not affect imports into the U.S. Virgin Islands.

Puerto Rico regulation currently prohibits the possession of spiny lobster (*P. argus*) with a carapace less than 3.5 inches. This existing law is consistent with the minimum carapace length restriction imposed by Part B. Therefore, the proposed carapace restriction of Part B should have no effect on spiny lobster imports into Puerto Rico.

Part B is expected to have no economic impact on imports into Puerto Rico or the U.S. Virgin Islands.

7.5.1.2.3 Total Economic Impact of Alternative 2 of Action 1

The bulk of the economic costs of this alternative would be the losses of revenues and profits associated with the illegal importation of Caribbean spiny lobster and the losses of income derived from that illegal activity. Decreases in revenues and profits earned from presently legal importation of spiny lobster would also occur; however, it is anticipated that most legal imports would not be affected by this alternative. The economic benefits of this alternative would be larger minimum-sized imported lobsters with greater market value and enhanced long-run domestic and foreign revenues, profits and incomes that derive from a biologically and economically improved resource.

7.5.1.3 Alternative 3 of Action 1

No person shall import into the U.S. a Caribbean spiny lobster that is smaller than the existing Continental U.S. minimum size limit. Specifically, no one in the U.S. would be allowed to import a Caribbean spiny lobster (*Panulirus* argus):

1. 3.0 inches (7.62 cm) or less carapace length if the animal is whole.
2. Less than 5.5 inches (13.97 cm) tail length if only the tail is present.
3. Less than 5 ounces (5 ounces is defined as a tail that weighs 4.5 to 5.4 ounces).

This alternative extends the import restrictions established by Part A of Alternative 2 from the Continental U.S. to include the Continental U.S, Puerto Rico and U.S. Virgin Islands. The economic impact of this alternative in the Continental U.S. is equivalent to the economic impact of Part A of Alternative 2. See section 7.5.1.2.1.

Both Puerto Rico and the U.S. Virgin Islands have laws that prohibit the possession of spiny lobster with a carapace less than 3.5 inches long. This alternative would allow the importation of Caribbean spiny lobsters with a carapace less than 3.5 inches, which would be in contradiction with Puerto Rico and U.S. Virgin Islands law. This alternative would encourage illegal fishing operations in these territories. Domestic fishing operations in either of these two territories could illegally take undersized lobsters in territorial waters and claim them to be imports that meet the smaller size standard.

7.5.1.4 Comparison of Alternatives of Action 1

A comparison of the economic costs and benefits of the three alternatives is presented in Table 7.5.1.8.

Table 7.5.1.8. Summary of Economic Costs and Benefits of Action 1 Alternatives.

Action 1: Establish Import-Size Standards				
Alternative		**Description**	**Economic Cost**	**Economic Benefit**
1		Don't impose import-size standards	Continues illegal importation of undersized lobster Supports illegal fishing and overfishing Leads to long-run biological and economic damages	Maintains status quo revenues, profits and incomes from imports of Caribbean spiny lobster
2	Part A: U.S.	No imports with carapace length 3.0 inches or less	Reduces some revenues, profits and incomes from legal trade	Reduces illegal importation of undersized lobster and associated illegal revenues, profits and incomes

		No imports with tail length 5.5 inches less No imports with tail weight less than 5 ounces		Discourages illegal fishing and overfishing Increases revenues, profits and incomes in long-run from legal use of resource
	Part B: Puerto Rico and U.S. Virgin Islands	No imports with carapace less than 3.5 inches No imports with tail length 6.2 inches less No imports with tail weight less than 5.9 ounces	None	None
3	U.S.	No imports with carapace length 3.0 inches or less No imports with tail length 5.5 inches less No imports with tail weight less than 5 ounces	Reduces some revenues, profits and incomes from legal trade	Reduces illegal importation of undersized lobster and associated illegal revenues, profits and incomes Discourages illegal fishing and overfishing Increased revenues, profits and incomes in long-run from legal use of resource
	Puerto Rico & U.S. Virgin Islands	No imports with carapace length 3.0 inches or less No imports with tail length 5.5 inches less No imports with tail weight less than 5 ounces	Encourages illegal operations in these territories Encourages overfishing in these territories Increases revenues, profits and incomes from illegal use of territorial resource Leads to long-run biological and economic damages to territorial resource	Increases revenues, profits and incomes from legal trade

7.5.2 Proposed Action 2: Establish other restrictions on importation of Caribbean spiny lobster

Four alternatives are considered for this action: a no action alternative and three alternatives. The second alternative is a combination of restrictions that are separated in the third and fourth alternatives.

7.5.2.1 Alternative 1 of Action 2

This is the no action alternative, and, as such, would not prohibit the importation of Caribbean spiny lobster meat that is removed from the exoskeleton nor importation of berried lobsters or those whose eggs, swimmerets or pleopods have been removed or stripped.

One method that illegal importers of spiny lobster use to reduce detection is by removing the meat from the exoskeleton of the lobsters and processing it into chunks. This

alternative would maintain that loophole, and if Alternative 2 or 3 of Action 1 were implemented, it is likely that there would be increased imports of processed spiny lobster meat in order to avoid detection of undersized lobsters. Thus, this alternative in conjunction with Alternative 2 or 3 of Action 1 would likely increase the adverse biological and economic impacts caused by the importation of illegal spiny lobster.

In Florida, the harvest or possession of eggbearing spiny lobster is prohibited and any egg-bearing lobster found in traps must be immediately returned to the water free, alive and unharmed (68B-24.007 *F.A.C.*). The practice of stripping or otherwise molesting eggbearing spiny lobster in order to remove the eggs is prohibited and the possession of spiny lobster or spiny lobster tails from which the eggs, swimmerets or pleopods have been removed or stripped is prohibited (68B-24.007 *F.A.C.*). The U.S. Virgin Islands prohibits the take, possession or sale of egg-bearing spiny lobsters (Title 12 Chapter 9A §319(b) *V.I.C.*). Any egg-bearing lobsters captured in traps or pots must be returned into the water in a live and unharmed condition; and the practice of stripping, shaving, scraping, clipping or otherwise molesting egg-bearing lobsters in order to remove the eggs is prohibited (Title 12 Chapter 9A §319(d,e) V.I.C.). In Puerto Rico, there is a similar prohibition on the possession of egg-bearing spiny lobsters and molestation of egg-bearing lobsters.

According to the Western Central Atlantic Fishery Commission, most countries have laws forbidding the harvest of egg-bearing females, and the greatest offenses of those laws tend to be in foreign artisanal fisheries. See Table 7.5.2.1. One method that illegal harvesters of berried females use to remove the eggs is by removing the pleopods (also known as swimmerettes). Under the tail of a Caribbean spiny lobster are four pairs of small leaf-like structures which are the pleopods. Each pleopod on a female has two lobes: one lobe is paddle-like and the other resembles small pincers. The fertilized eggs attach to long hairs called "setae" on the pincer-like lobes of her pleopods. Prohibiting the removal of the pleopods would be easy to enforce because it is easy to detect if they have been removed or not. The status quo alternative would not reduce the illegal importation of female lobsters that have had their eggs removed and the associated adverse biological and economic impacts to the stock from such a practice.

Table 7.5.2.1. Other Foreign Harvest Restrictions for Caribbean Spiny Lobster. *Source*: FAO website.

Country[1]	Prohibits Exportation Lobster Meat?	Prohibits Harvest of Berried Lobsters?	Prohibits Removal of Eggs?	Prohibits Removal of Pleopods?
Anguilla		Yes	Yes	
Antigua & Barbuda		Yes	Yes	Yes
Bahamas		**Yes**	**Yes**	**Yes**
Barbados		Yes	Yes	
Belize		**Yes**	**Yes**	**Yes**
Bermuda		Yes	Yes	Yes
Brazil		**Yes**	**Yes**	
British Virgin Islands		Yes	Yes	Yes
Columbia		**Yes**	**Yes**	

Costa Rica		**Yes**	**Yes**	
Cayman				
Dominica		Yes		
Dominican Republic		**Yes**	**Yes**	
Grenada		Yes	Yes	Yes
Guadaloupe				
Guatemala				
Guyana				
Haiti		**Yes**	**Yes**	
Honduras		**Yes**	**Yes**	
Jamaica		**Yes**	**Yes**	
Martinique				
Mexico		**Yes**	**Yes**	
Monserrat				
Nicaragua		**Yes**	**Yes**	
Panama		**Yes**		
St. Kitts & Nevis		Yes		
St. Lucia		Yes	Yes	
Saint Vincent & the Grenadines		Yes	Yes	
Turks and Caicos		**Yes**	**Yes**	
Trinidad & Tobago				
Venezuela		**Yes**	**Yes**	

1. Countries listed in bold and italicized are countries of origin of U.S. imports of rock lobster from 2002 through 2007.

7.5.2.2 Alternative 2 of Action 2

This alternative would prohibit the importation of: 1) spiny lobster (tail) meat without the exoskeleton attached and 2) spiny lobster with eggs attached or where the eggs or pleopods (swimmerets) have been removed or stripped.

7.5.2.2.1 Prohibiting Importation of Meat Removed from the Shell

Most imports of spiny lobster are parts or wholes of the lobster with the meat attached to the exoskeleton; however, some imports are lobster meat that has been removed from the shell. One method that illegal importers have used and continue to use to avoid detection is to remove the meat from the exoskeletons of undersized and berried lobsters and then package the meat in chunks. This alternative would eliminate such illegal imports. It would also prohibit any currently legal imports of Caribbean spiny lobster meat that has been removed from the shell. Preliminary information suggests the ban on imports of lobster meat that has been extracted from the shell would have the greatest impact on illegal, not legal, trade.

The bulk of the economic costs of this ban would be the losses of illegal revenues and profits associated with the illegal importation of Caribbean spiny lobster meat and the losses of income derived from that illegal activity. Decreases in revenues and profits earned from presently legal importation of spiny lobster meat would also occur; however, the losses of legal revenues, profits and incomes are expected to be substantially lower by comparison. The economic benefits of this prohibition would be improved domestic and foreign revenues, profits and incomes that derive from a biologically and economically improved resource.

7.5.2.2.2 Prohibiting Importation of Berried Lobsters or Removal of Eggs or Pleopods

From 2002 through 2007, rock lobster imports have originated from the following 17 countries that harvest Caribbean spiny lobster: The Bahamas, Belize, Brazil, Columbia, Costa Rica, Dominican Republic, Guatemala, Guyana, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Turks and Caicos Islands, Trinidad and Tobago, and Venezuela. See Tables 7.5.1.1 and 7.5.1.2. Of these 17 countries, Guatemala, Guyana, and Trinidad and Tobago do not have laws that prohibit the harvest of spiny lobsters with eggs or removal of eggs. See Table 7.5.2.1. Combined rock lobster imports from these three countries represent $183,000 (about 0.05 percent) of $356 million of frozen imports and $9,000 (about 0.3 percent) 0f the $2.9 million of non-frozen imports.

Panama has a law that prohibits the harvest of berried lobsters, but may not prohibit the removal of eggs. Imports of rock lobster from Panama represent about 0.7 percent of frozen rock lobster imports and none of the non-frozen imports.

Any imports of berried Caribbean spiny lobster or those with their eggs removed from the following countries are presently illegal under the Lacey Act: The Bahamas, Belize, Brazil, Columbia, Costa Rica, Dominican Republic, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Turks and Caicos Islands, and Venezuela. Consequently, a prohibition against the importation of berried lobsters or removal of eggs would not affect any legal imports from those 13 countries.

As stated previously in section 7.5.2.1, the possession of egg-bearing spiny lobster is prohibited in Florida, Puerto Rico and the U.S. Virgin Islands. Therefore, any imports of berried spiny lobster into Florida, Puerto Rico or the U.S. Virgin Islands, regardless of country of origin, are presently illegal. In 2006 and 2007, all imports of rock lobster from Guatemala entered the U.S. in Florida and this analysis presumes those imports came into possession in Florida. Hence, it is expected that all imports from Guatemala presently must comply with Florida law and any imports of berried lobsters from that country are illegal. Guyana and Trinidad and Tobago, the only other countries that do not prohibit the harvest of berried lobsters, have not exported rock lobster to the U.S. since 2005.

Florida, Puerto Rico, and the U.S. Virgin Islands prohibit the removal of eggs from female lobsters. In Florida, it is illegal to remove pleopods (or swimmerets). The U.S. Virgin Islands prohibits the practice of stripping, shaving, scraping, clipping or otherwise molesting egg-bearing lobsters in order to remove the eggs is prohibited and Puerto Rico prohibits the molestation of egg-bearing lobsters, which includes removal of the pleopods.

The typical method that illegal importers use to remove eggs from berried lobsters is to remove the pleopods (or swimmerets). Of the 17 countries that export Caribbean spiny lobster to the U.S., only the Bahamas and Belize have laws that prohibit such removal. Hence, the illegal importation of female lobsters that have had their eggs removed by clipping away their pleopods is a problem and would likely increase if Alternative 2 or 3 of Action 1 is implemented because illegal importers would likely substitute larger female lobsters that have had their eggs removed for undersized lobsters.

The bulk of the economic costs of prohibiting the importation of berried Caribbean spiny lobsters or those with their eggs or pleopods removed would be the losses of revenues and profits associated with the illegal importation of female spiny lobsters that have had their eggs stripped off by removing the pleopods and the losses of incomes that derive from such illegal activity. The economic benefits of this prohibition would be improved domestic and foreign revenues, profits and incomes that derive from a biologically and economically improved resource.

7.5.2.2.3 Total Economic Impact of Alternative 2 of Action 2

The bulk of the economic costs of prohibiting the importation of Caribbean spiny lobster meat that is removed from the exoskeleton would be the losses of revenues and profits associated with the illegal importation of both undersized spiny lobsters and those lobsters that have had their eggs removed and the losses of incomes that derive from such illegal activity. Decreases in revenues, profits and incomes earned from presently legal importation of spiny lobster meat separated from the shell would also occur; however, they are anticipated to be substantially lower by comparison to the losses of illegal revenues, profits and incomes generated from illegal operations that remove the meat from the shell.

Similarly, the prohibition against the importation of berried Caribbean spiny lobsters or those with their eggs or pleopods removed is expected to have the greatest impact on illegal operations that would lose revenues and profits generated from the illegal importation of female spiny lobsters that have had their eggs stripped off by removing the pleopods and the losses of incomes that derive from such illegal activity.

The economic combined benefits of this alternative would be improved domestic and foreign revenues, profits and incomes that derive from a biologically and economically improved resource.

7.5.2.3 Alternative 3 of Action 2

This alternative would prohibit the importation of spiny lobster meat without the exoskeleton attached and is identical to part 1 of Alternative 2, which bans the importation of spiny lobster meat without the exoskeleton attached. Consequently, its economic impact is identical to the economic impact described in section 7.5.2.2.1.

7.5.2.4 Alternative 4 of Action 2

This alternative would prohibit the importation of spiny lobster with eggs attached or where the eggs or pleopods (swimmerets) or have been removed or stripped. This alternative is identical to part 2 of Alternative 2. Thus, its economic impact is identical to the economic impact described in section 7.5.2.2.2.

7.5.2.5 Comparison of Economic Costs and Benefits of Alternatives

A summary of the economic costs and benefits of the four alternatives of Action 2 is presented in Table 7.5.2.2.

Table 7.5.2.2 Comparison of Economic Costs and Benefits of Action 2 Alternatives

Action 2: Establish Other Import Restrictions			
Alternative	**Description**	**Economic Cost**	**Economic Benefit**
1	Don't impose other import restrictions	Continues illegal importation of lobsters Supports illegal fishing and overfishing Leads to long-run biological and economic damages	Maintains status quo revenues, profits and incomes from trade
2	No imports of lobster meat detached from shell	Reduces some revenues, profits and incomes from legal trade	Reduces illegal importation of undersized and berried lobsters and those with eggs removed and associated illegal revenues, profits and incomes Discourages illegal fishing and overfishing Increases revenues, profits and incomes in long-run from legal use of resource
	No imports berried lobster or with eggs or pleopods removed	Reduces some revenues, profits and incomes from legal trade	Reduces illegal importation of berried lobsters and those with their eggs removed Discourages illegal fishing and overfishing Increases revenues, profits and incomes in long-run from legal use of resource
3	No imports of lobster meat detached from shell	Reduces some revenues, profits and incomes from legal trade	Reduces illegal importation of undersized and berried lobsters and those with eggs removed and associated illegal revenues, profits and incomes

			Discourages illegal fishing and overfishing Increases revenues, profits and incomes in long-run from legal use of resource
4	No imports berried lobster or with eggs or pleopods removed	Reduces some revenues, profits and incomes from legal trade	Reduces illegal importation of berried lobsters and those with their eggs removed Discourages illegal fishing and overfishing Increases revenues, profits and incomes in long-run from legal use of resource

7.6 Public and Private Costs of Regulations

The preparation, implementation, enforcement, and monitoring of this or any Federal action involves the expenditure of public and private resources which can be expressed as costs associated with the regulations. Costs associated with this amendment include:

Council costs of document preparation, meetings, public hearings, and information dissemination $100,000

NOAA Fisheries administrative costs of document preparation, meetings and review $100,000

Annual law enforcement costs..... $ Less than current costs

7.7 Determination of Significant Regulatory Action

Pursuant to E.O. 12866, a regulation is considered a "significant regulatory action" if it is expected to result in: (1) an annual effect of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights or obligations of recipients thereof; or (4) novel legal or policy issues, arising out of legal mandates, the President's priorities or the principles set forth in this executive order. Based on the information above, this regulatory action was determined not to be economically significant because it would not have an annual effect of $100 million or more or adversely affect in a material way the economy or a sector of the economy, productivity, competition, or jobs. However, the action has been determined to be significant for purposes of E.O. 12866 because it may raise novel legal or policy issues in regards to international trade agreements.

8.0 REGULATORY FLEXIBILITY ANALYSIS

8.1 Introduction

The purpose of the Regulatory Flexibility Act (RFA) is to establish a principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and applicable statutes, to fit regulatory and informational requirements to the scale of businesses, organizations, and governmental jurisdictions subject to regulation. To achieve this principle, agencies are required to solicit and consider flexible regulatory proposals and to explain the rationale for their actions to assure that such proposals are given serious consideration. The RFA does not contain any decision criteria; instead, the purpose of the RFA is to inform the agency, as well as the public, of the expected economic impacts of the alternatives contained in the FMP or amendment (including framework management measures and other regulatory actions) and to ensure that the agency considers alternatives that minimize the expected impacts while meeting the goals and objectives of the FMP and applicable statutes.

With certain exceptions, the RFA requires agencies to conduct a regulatory flexibility analysis for each proposed rule. The regulatory flexibility analysis is designed to assess the impacts various regulatory alternatives would have on small entities, including small businesses, and to determine ways to minimize those impacts. In addition to analyses conducted for the RIR, the initial regulatory flexibility analysis provides: (1) a description of the reasons why action by the agency is being considered; (2) a succinct statement of the objectives of, and legal basis for the proposed rule; (3) an identification, to the extent practicable, of all relevant Federal rules which may duplicate, overlap, or conflict with the proposed rule; (4) a description and, where feasible, an estimate of the number of small entities to which the proposed rule will apply; (5) a description of the projected reporting, record-keeping, and other compliance requirements of the final rule, including an estimate of the classes of small entities which will be subject to the requirements of the report or record; and (6) a description of significant alternatives to the proposed rule which accomplish the stated objectives of applicable statues and which minimize any significant economic impact of the proposed rule on small entities.

8.2 Statement of need for, objectives of, and legal basis for the proposed rule

The purpose and need, issues, problems, and objectives of the proposed Amendment are presented in Section 1.2 and are incorporated herein by reference. According to the Western Central Atlantic Fishery Commission, international trade of legally undersized Caribbean spiny lobster (*Panulirus argus*) is a serious problem. The U.S. is the largest importer of Caribbean spiny lobster and existing laws are insufficient to prevent the importation of lobsters illegally caught and traded. U.S. law enforcement's ability to screen imports for compliance with the Lacey Act is compromised by vague foreign minimum harvest-size and other laws that are intended to protect Caribbean spiny lobster. By implementing uniform importation standards, law enforcement's ability to effectively

prevent the importation of undersized, berried lobsters and those with their eggs removed will be improved. This in turn may help protect the species both in the U.S. and in the Caribbean as a whole. These proposed actions are being considered by the National Marine Fisheries Service under the authority of the Magnuson-Stevens Fishery Conservation and Management Act.

8.3 Identification of Federal rules which may duplicate, overlap or conflict with the proposed rule

The Lacey Act, as amended in 1981 (16 USC §§ 3372 et seq.) prohibits the trade of fish, wildlife, or plants taken in violation of any foreign, state, tribal or other U.S. law. For example, it is a violation of the Lacey Act to import Caribbean spiny lobster (CSL) that is in violation of the country of origin's minimum harvest-size standard or other harvesting laws. Many of the countries that harvest CSL have minimum harvest-size standards and other harvest restrictions, some of which are equivalent to or greater than the proposed import standard and restrictions. See Table 7.5.1.6. No federal regulations or other federal laws have been identified that may duplicate, overlap or conflict with the proposed rule. However, Alternative 3 of Action 2 would produce import standards that are inconsistent with legal harvest standards established in Puerto Rico and the U.S. Virgin Islands.

8.4 Description of the projected reporting, record-keeping and other compliance requirements of the proposed rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for the preparation of the report or records

The two proposed actions would not impose reporting or record-keeping requirements on any U.S. entity. Alternatives 2 and 3 of Action 1 would establish import-size standards. See Sections 7.5.1.2 and 7.5.1.3 for descriptions. Alternatives 2 through 4 of Action 2 would establish other import restrictions. See Sections 7.5.2.2 through 7.5.2.4 for descriptions.

8.5 Description and estimate of the number of small entities to which the proposed rule will apply

The two proposed actions would affect small businesses that import CSL into the United States from countries: 1) with legal minimum size standards that are less than those proposed in Alternatives 2 or 3 of Action 1 or without such standards and 2) without prohibitions against harvesting female lobsters with eggs, detaching eggs and/or removing pleopods (or swimmerets). It is anticipated that no small governmental jurisdictions or small not-for-profit organizations would be affected by this proposed action.

The following countries and territories have reported harvesting CSL during the period from 1962 through 2003, according to the FAO: Anguilla, Antigua and Barbuda, The Bahamas, Belize, Bermuda, Brazil, British Virgin Islands, Columbia, Costa Rica, Cuba, Dominican Republic, Grenada, Haiti, Honduras, Martinique, Mexico, Grenada, St. Kitts and Nevis, St. Lucia, Saint Vincent and Grenadines, Turks and Caicos, Nicaragua, Puerto Rico, Saint Kitts and Nevis, Trinidad and Tobago, Turks and Caicos Island, U.S., U.S. Virgin Islands, and Venezuela (Bolivarian Republic of). From 2002 through 2007 the following 17 countries that harvest Caribbean spiny lobster were countries of origin of rock lobster imported into the U.S.: Bahamas, Belize, Brazil, Columbia, Costa Rica, Dominican Republic, Guatemala, Guyana, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Trinidad and Tobago, Turks and Caicos Islands, and Venezuela. See Tables 7.5.1.1 and 7.5.1.2. Caribbean spiny lobster is just one species among those identified as "rock lobster." Rock lobster includes all *Panulirus*, *Palinurus* and *Jasus* species.

Businesses that import CSL into the U.S. are expected to be within the following industries: Fish and Seafood Merchant Wholesalers (NAICS 424460), Fish and Seafood Markets (NAICS 445220), Fish and Frozen Seafood Processing (NAICS 311712), Packaged Frozen Food Merchant Wholesalers (NAICS 424420), and Supermarkets and Other Grocery (Except Convenience) Stores (NAICS 445110). The small business size standards for these industries are presented in Table 8.1 and corresponding 2002 Economic Census figures for the U.S. are presented in Tables 8.2 and 8.3.

Table 8.1. Industries of Small Businesses that Could Be Affected by Proposed Actions

Industry Description	NAICS Code	SBA Size Standard
Fish and Seafood Merchant Wholesalers	424460	100 employees
Fish and Seafood Markets	445220	$6.5 million
Packaged Frozen Food Merchant Wholesalers	424420	100 employees
Fish and Frozen Seafood Processing	311712	500 employees
Supermarkets and Other Grocery (Except Convenience) Stores	445110	$25 million

Table 8.2. Employer Establishments in Industries Likely to Import Caribbean Spiny Lobster for U.S. *Source*: 2002 Economic Census.

NAICS	Paid Employees	Annual Payroll $1000s	Estab.	Sales $1000s
424460	22,476	703,564	2,515	11933,530
445220	9,902	170,428	2,042	1,501,257
424420	94,880	3,607,395	3,629	66,097,512
311712	36,268	923,963	6,06	7,564,091
445110	2,437,750	42,790,166	66,150	395,233,897

In 2005 in Puerto Rico, there was one establishment in NAICS 31171, 13 in NAICS

424420, 6 establishments in NAICS 424460, 975 in NAICS 445110, and 7 in NAICS 445220 (U.S. Census Bureau, County Business Patterns for Puerto Rico). In the U.S. Virgin Islands in 2002, there were 16 employer establishments in NAICS 4244 with annual sales of about $77 million, 43 in NAICS 44511 with combined annual sales of about $204 million, 14 in NAICS 4452 with combined annual sales, and 6 in NAICS 311 of about $0.6 million. See Table 8.3.

Table 8.3 2002 Economic Census of Puerto Rico and U.S. Virgin Islands. *Source*: U.S. Census Bureau, 2002 Economic Census of Island Areas.

NAICS	Puerto Rico			U.S. Virgin Islands		
	Estab.	Employees	Annual Sales ($1000s)	Estab.	Employees	Annual Sales ($1000s)
311				6	89	6,030
3117	2	A	A			
4244	299	8,112	2.838,221	16	279	77,310
44511	1,053	22,710	3,318,949	43	1,389	204,332
4452	240	1,124	136,026	14	20 - 99	A
44522	7	10	861			

A: Census Bureau did not disclose.

8.5.1 Small Businesses that Could Be Affected by Alternatives 2 and 3

8.5.1.1 Small Businesses that Could Be Affected by Part A of Alt. 2

No legal imports from the following 7 countries of origin should be affected by Part A of Alternative 2 of Action 1 because of their size standards: Bahamas, Columbia, Dominican Republic, Honduras, Turks and Caicos Islands, Nicaragua, and Venezuela. See Section 7.5.1.2.1.

This action should affect more illegal importers of CSL than legal importers; however, some legal imports from Belize, Brazil, Costa Rica, Guatemala, Guyana, Haiti, Jamaica, Mexico, Panama, and Trinidad and Tobago could be affected by Part A of Alternative 2 of Action 1. In the past 6 years, Guyana and Trinidad and Tobago have been the country of origin only once and there have been no imports of rock lobster from these countries since 2004.

Florida law prohibits the possession of CSL that does not meet the size standards equivalent to Part A of this alternative. It is presumed for this initial analysis that imports of CSL that have entered and continue to enter the country at a Florida port come into possession in Florida and, therefore, already comply with Florida size requirements and the requirements that would be established by Part A. However, if any historical imports of spiny lobster remained within U.S. Customs jurisdiction until shipped out of a Florida port and did not come into possession in Florida, those imported spiny lobsters were not required to be in compliance with Florida size standards. Consequently, some of those

past imports of CSL may not have satisfied the requirements being proposed in Part A. Therefore, the NMFS encourages any small businesses that imported and/or presently import spiny lobster through a Florida port to comment on the assumption that Caribbean spiny lobster imports that entered and continue to enter the country at a Florida port come to be possessed in Florida. All rock lobster imports from Haiti and Guatemala historically have entered at a Florida port, and therefore, this analysis presumes no legal imports of spiny lobster from Haiti or Guatemala would be affected by this alternative. Imports of rock lobster from Belize, Brazil, Costa Rica, Jamaica, Mexico and Panama enter the U.S. at both Florida and non-Florida ports. About 98 percent of the pounds and total dollar value of rock lobster annually imported from Jamaica enter at a Florida port. See Table 7.5.1.7. These rock lobster imports include all *Palinurus* species, *Panulirus* species and *Jasus* species.

Most rock lobster imports originate from Brazil. A preliminary review of 2006 through 2007 imports of frozen rock lobster from Brazil showed 17 different businesses that imported rock lobster from that country into the United States. Of those businesses, 3 were identified as being owned by a corporation or headquartered in a foreign country and at least 7 are not small businesses. Thus, it is initially concluded that at most 7 small businesses that import rock lobster from Brazil could be affected by the proposed action. At least 89 percent of the imports of rock lobster, however, are brought into the U.S. by foreign corporations and large businesses.

Small businesses indirectly affected would be those in Florida who benefit directly and indirectly from commercial and recreational harvest of Caribbean spiny lobster and are dependent upon the sustainability of the resource. See Section 5.3.7.

U.S. Customs data shows there were no imports of rock lobster (frozen or not) into the U.S. Virgin Islands from 2001 through 2007 and it is anticipated that few to zero imports and importers of rock lobster into the U.S. Virgin Islands would be affected by the alternative actions under consideration.

8.5.1.2 Small Businesses that Could Be Affected by Part B of Alt. 2

No legal imports of Caribbean spiny lobster into Puerto Rico or the U.S. Virgin Islands are expected to be affected by this Part B. See Section 7.5.1.2.2. Hence, no small businesses are expected to be affected by Part B of this alternative.

8.5.2 Small Businesses that Could Be Affected by Alternative 3

This alternative would: (1) directly and indirectly affect the same small businesses and have the same economic impact as Part A of Alternative 2 as described in Section 8.5.1.1 and (2) directly affect small businesses that import Caribbean spiny lobster into Puerto Rico and the U.S. Virgin Islands and indirectly small businesses that harvest and benefit from the harvest of Caribbean spiny lobster in Puerto Rico and the U.S. Virgin Islands.

The impact on small businesses that import CSL into the two territories could be beneficial by increasing the allowed imports into the territories; however, the import standards would contradict existing laws in Puerto Rico and the U.S. Virgin Islands and could encourage overfishing of spiny lobster in territorial waters and illegal harvest in those waters, which would have an indirect and adverse impact small lobster fishing businesses. See Section 7.5.1.3.

8.5.3 Small Businesses that Could Be Affected by Alternatives 2 - 4

8.5.3.1 Small Businesses that Could Be Affected by Alternative 2

One method that illegal importers have used and continue to use to avoid detection is to remove the meat from the exoskeletons of undersized and berried spiny lobsters and then package the meat in chunks. This alternative would eliminate such illegal imports. It would also prohibit any currently legal imports of Caribbean spiny lobster meat that has been removed from the shell. Preliminary information suggests the ban on imports of lobster meat that has been extracted from the shell would have the greatest impact on illegal, not legal, trade. Most imported spiny lobster meat has the exoskeleton attached and would not be affected by this alternative; however, small businesses that import meat of the Caribbean spiny lobster that is separated from the shell would be directly affected by this alternative. See Section 7.5.2.2. Small businesses that exploit the resource or those that do business with those that do would benefit in the long-run by the improved status of the species.

From 2002 through 2007, rock lobster imports have originated from the following 17 countries that harvest Caribbean spiny lobster: The Bahamas, Belize, Brazil, Columbia, Costa Rica, Dominican Republic, Guatemala, Guyana, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Turks and Caicos Islands, Trinidad and Tobago, and Venezuela. See Tables 7.5.1.1 and 7.5.1.2. Of these 17 countries, Guatemala, Guyana, and Trinidad and Tobago do not have laws that prohibit the harvest of spiny lobsters with eggs or removal of eggs. See Table 7.5.2.1. Combined rock lobster imports from these three countries represent $183,000 (about 0.05 percent) of $356 million of frozen imports and $9,000 (about 0.3 percent) of the $2.9 million of non-frozen imports. Panama has a law that prohibits the harvest of berried lobsters, but may not prohibit the removal of eggs. Imports of rock lobster from Panama represent about 0.7 percent of frozen rock lobster imports and none of the non-frozen imports. Therefore, this alternative may directly affect small businesses that import spiny lobster from Guatemala, Guyana, Panama, and Trinidad and Tobago by causing them to import fewer lobsters. However, the long-run improvement of the status of the species would generate beneficial economic impacts to those small businesses that directly and indirectly benefit from exploitation of the resource.

8.5.3.2 Small Businesses that Could Be Affected by Alternative 3

This alternative prohibits the importation of spiny lobster meat that is not attached to the exoskeleton. As stated previously, most spiny lobster imports have been meat within the shell; however, small businesses that import meat of the Caribbean spiny lobster that is separated from the shell would be affected by this alternative. See Section 7.2.2.2.2 and first paragraph of 8.5.3.1.

8.5.3.3 Small Businesses that Could Be Affected by Alternative 4

This alternative prohibits the importation of female lobsters with eggs attached and lobsters with either eggs or pleopods (or swimmerets) removed. See second paragraph of Section 8.5.3.1.

8.6 Substantial number of small entities criterion

The two actions being considered are not expected to affect a substantial number of small businesses each year. These actions are designed to significantly reduce illegal trade of Caribbean spiny lobster and the bulk of the adverse economic impacts are expected to affect illegal, not legal, importers of the lobster.

8.7 Significant economic impact criterion

The outcome of "significant economic impact" can be ascertained by examining two issues: disproportionality and profitability.

Disproportionality: Do the regulations place a substantial number of small entities at a significant competitive disadvantage to large entities?

Profitability: Do the regulations significantly reduce profit for a substantial number of small entities?

The two proposed actions are not expected to generate a significant adverse economic impact on small businesses that legally import Caribbean spiny lobster. It is expected that a substantial majority of currently legal imported lobster would not be affected. The purposes of the actions are to: 1) improve the detection of illegally traded Caribbean spiny lobsters and prosecution of those engaged in the illegal trade and 2) reduce the costs of such detection and legal action.

The National Marine Fisheries Service encourages small businesses to comment on any of the potential economic impacts of the two actions and their alternatives under consideration in this section and other sections of this document.

8.8 Description of significant alternatives

The two proposed actions are not expected to have a significant adverse economic impact on a substantial number of small entities that import Caribbean spiny lobster, either separately or in combination. Consequently, no significant alternatives, as defined by the RFA, have been considered; however, discussion of the expected impacts of the alternatives considered for each of the two actions as required by E.O. 12866 is contained in Section 7.

9.0 OTHER APPLICABLE LAWS

The MSFCMA (16 U.S.C. 1801 et seq.) provides the authority for U.S. fishery management. But fishery management decision-making is also affected by a number of other federal statutes designed to protect the biological and human components of U.S. fisheries, as well as the ecosystems within which those fisheries are conducted. Major laws affecting federal fishery management decision making are summarized below.

9.1 Administrative Procedures Act

All federal rulemaking is governed under the provisions of the Administrative Procedure Act (APA) (5 U.S.C. Subchapter II), which establishes a "notice and comment" procedure to enable public participation in the rulemaking process. Under the APA, NOAA Fisheries is required to publish notification of proposed rules in the *Federal Register* and to solicit, consider and respond to public comment on those rules before they are finalized. The APA also establishes a 30-day wait period from the time a final rule is published until it takes effect.

9.2 Coastal Zone Management Act

The Coastal Zone Management Act (CZMA) of 1972 (16 U.S.C. 1451 et seq.) encourages state and federal cooperation in the development of plans that manage the use of natural coastal habitats, as well as the fish and wildlife those habitats support. When proposing an action determined to directly affect coastal resources managed under an approved coastal zone management program, NOAA Fisheries is required to provide the relevant state agency with a determination that the proposed action is consistent with the enforceable policies of the approved program to the maximum extent practicable at least 90 days before taking final action.

9.3 Information Quality Act

The Data Quality Act (DQA) (Public Law 106-443), which took effect October 1, 2002, requires the government for the first time to set standards for the quality of scientific information and statistics used and disseminated by federal agencies. Information includes any communication or representation of knowledge such as facts or data, in any medium or form, including textual, numerical, cartographic, narrative, or audiovisual forms (includes web dissemination, but not hyperlinks to information that others disseminate; does not include clearly stated opinions).

Specifically, the Act directs the Office of Management and Budget (OMB) to issue

government wide guidelines that "provide policy and procedural guidance to federal agencies for ensuring and maximizing the quality, objectivity, utility, and integrity of information disseminated by federal agencies." Such guidelines have been issued, directing all federal agencies to create and issue agency-specific standards to 1) ensure Information Quality and develop a pre-dissemination review process; 2) establish administrative mechanisms allowing affected persons to seek and obtain correction of information; and 3) report periodically to OMB on the number and nature of complaints received.

Scientific information and data are key components of FMPs and amendments and the use of best available information is the second national standard under the MSFCMA. To be consistent with the Act, FMPs and amendments must be based on the best information available, properly reference all supporting materials and data, and should be reviewed by technically competent individuals. With respect to original data generated for FMPs and amendments, it is important to ensure that the data are collected according to documented procedures or in a manner that reflects standard practices accepted by the relevant scientific and technical communities. Data should also undergo quality control prior to being used by the agency.

9.4 Endangered Species Act

The Endangered Species Act (ESA) of 1973 (16 U.S.C. Section 1531 et seq.) requires that federal agencies use their authorities to conserve endangered and threatened species, and that they ensure actions they authorize, fund, or carry out are not likely to harm the continued existence of those species or the habitat designated to be critical to their survival and recovery. The ESA requires NOAA Fisheries, when proposing a fishery action that "may affect" critical habitat or endangered or threatened species, to consult with the appropriate administrative agency (itself for most marine species, the U.S. Fish and Wildlife Service for all remaining species) to determine the potential impacts of the proposed action. Consultations are concluded informally when proposed actions "may affect but are not likely to adversely affect" endangered or threatened species or designated critical habitat. Formal consultations, resulting in a biological opinion, are required when proposed actions may affect and are "likely to adversely affect" endangered or threatened species or designated critical habitat. If jeopardy or adverse modification is found, the consulting agency is required to suggest reasonable and prudent alternatives.

On April 28, 1989, NOAA Fisheries Southeast Region (SERO) completed a formal consultation, including a Biological Opinion (Opinion), on the effects of commercial fishing activities in the Southeast Region on threatened and endangered species. The Opinion concluded that the Gulf of Mexico and South Atlantic spiny lobster fishery was likely to adversely affect, but not jeopardize the continued existence of ESA-listed sea turtles. Subsequent, informal consultations on the continued authorization of the fishery determined it was not likely to adversely affect ESA-listed species. The impacts of the Caribbean spiny lobster fishery on ESA-listed species were last evaluated in a formal consultation, concluded on May 19, 2005. The opinion concluded that Caribbean spiny lobster fishing was likely to adversely affect, but not jeopardize the continued existence

of ESA-listed sea turtles.

As provided in 50 CFR 402.16, reinitiation of formal consultation is required when discretionary involvement or control over the action has been retained (or is authorized by law) and: (1) the amount or extent of the incidental take is exceeded; (2) new information reveals effects of the agency action that may affect listed species or critical habitat in a manner or to an extent not previously considered; (3) the agency action is subsequently modified in a manner that causes an effect to the listed species or critical habitat not previously considered; or (4) if a new species is listed or critical habitat designated that may be affected by the identified action.

Since the completion of the most recent formal consultations on these fisheries, two species of *Acropora* coral have been listed under the ESA, and may be affected by spiny lobster fishing. Additionally, new information is available revealing effects of the action that may affect listed species or critical habitat in a manner or to an extent not previously considered. Accordingly, NOAA Fisheries Office of Sustainable Fisheries has requested initiation of a Section 7 consultation with the SERO's Protected Resources Division for this amendment. NOAA Fisheries anticipates completion of the consultations on the Gulf of Mexico/South Atlantic and Caribbean spiny lobster fisheries prior to Secretarial review and approval of the fishery plan amendments for the spiny lobster fisheries.

9.5 Rivers and Harbors Act of 1899

The Rivers and Harbors Act was created in 1899 to prevent navigable waters of the United States from being obstructed. Section 10 of the Act requires that anyone wishing to dredge, fill, or build a structure in any navigable water and associated wetlands obtain a permit from the ACOE. An activity affecting wetlands may require a Section 404 and Section 10 permit, thus both sections are often included together in a permit notice. When these activities are permitted, and there is direct loss of submerged habitat, such as seagrasses, then mitigation is often required to compensate for this loss.

9.6 Clean Water Act

In 1972, Congress passed the Clean Water Act (CWA) - also known as the Water Pollution Prevention and Control Act - to protect the quality of the nation's waterways including oceans, lakes, rivers and streams, aquifers, coastal areas, and aquatic resources. The law sets out broad rules for protecting the waters of the United States; Sections 404 and 401 apply directly to waters and aquatic resources protection.

Section 404 of the Clean Water Act (often referred to as "Section 404" or simply "404") forbids the unpermitted "discharge of dredge or fill material" into waters of the United States. Section 404 does not regulate every activity in aquatic resources or coastal areas, but requires anyone seeking to fill any area to first obtain a permit from the Army Corps of Engineers (ACOE). Constructing bridges, causeways, piers, port expansion, or any other construction or development activity along a waterway or in aquatic resources generally requires a 404 permit. When a fill project is permitted, there may be mitigation required to replace lost aquatic resources.

Section 401 of the Clean Water Act requires that an applicant for a Section 404 permit obtain a certificate from their state's environmental regulatory agency (if the state has delegated such authority to the agency) that the activity will not negatively impact water quality. This permit process is supposed to prevent the discharge of pollutants (pesticides, heavy metals, hydrocarbons) or sediments into waters, which may be above acceptable levels, because decreased water quality may endanger the health of the people, fish, and wildlife. However, acceptable pollutant levels have not been established for many aquatic resources, which make it difficult for state agencies to fully assess a project's impact on water quality.

9.7 National Marine Sanctuaries Act

Under the National Marine Sanctuaries Act (NMSA) (also known as Title III of the Marine Protection, Research and Sanctuaries Act of 1972), as amended, the Secretary of Commerce is authorized to designate National Marine Sanctuaries to protect distinctive natural and cultural resources whose protection and beneficial use requires comprehensive planning and management. The National Marine Sanctuaries are administered by NOAA's National Ocean Service. The Act provides authority for comprehensive and coordinated conservation and management of these marine areas. The National Marine Sanctuary System currently comprises 13 sanctuaries around the country, including sites in American Samoa and Hawaii. These sites include significant coral reef and kelp forest habitats, and breeding and feeding grounds of whales, sea lions, sharks, and sea turtles. A complete listing of the current sanctuaries and information about their location, size, characteristics, and affected fisheries can be found at http://www.sanctuaries.nos.noaa.gov/oms/oms.html.

9.8 Fish and Wildlife Coordination Act

The Fish and Wildlife Coordination Act protects the quality of the aquatic environment needed for fish and wildlife resources. The Act requires consultation with the Fish and Wildlife Service and the fish and wildlife agencies of States where the "waters of any stream or other body of water are proposed or authorized, permitted or licensed to be impounded, diverted . . . or otherwise controlled or modified" by any agency (except TVA) under a Federal permit or license. NOAA Fisheries was brought into the process later, as these responsibilities were carried over, during the reorganization process that created NOAA. Consultation is to be undertaken for the purpose of "preventing loss of and damage to wildlife resources", and to ensure that the environmental value of a body of water or wetland is taken into account in the decision-making process during permit application reviews. Consultation is most often (but not exclusively) initiated when water resource agencies send the FWS or NOAA Fisheries a public notice of a Section 404 permit. FWS or NOAA Fisheries may file comments on the permit stating concerns about the negative impact the activity will have on the environment, and suggest measures to reduce the impact.

9.9 Executive Orders

9.9.1 E.O. 12114: Environmental Assessment of Actions Abroad

The purpose of this Executive Order is to enable responsible officials of Federal agencies having ultimate responsibility for authorizing and approving actions encompassed by this Order to be informed of pertinent environmental considerations and to take such considerations into account, with other pertinent considerations of national policy, in making decisions regarding such actions. While based on independent authority, this Order furthers the purpose of the National Environmental Policy Act and the Marine Protection Research and Sanctuaries Act and the Deepwater Port Act consistent with the foreign policy and national security policy of the United States, and represents the United States government's exclusive and complete determination of the procedural and other actions to be taken by Federal agencies to further the purpose of the National Environmental Policy Act, with respect to the environment outside the United States, its territories and possessions.

Agencies in their procedures shall establish procedures by which their officers having ultimate responsibility for authority and approving actions in one of the following categories encompassed by this Order, take into consideration in making decisions concerning such actions, a document described in Section 2-4(a):
(a) major Federal actions significantly affecting the environment of the global commons outside the jurisdiction of any nation (e.g., the oceans or Antarctica);
(b) major Federal actions significantly affecting the environment of a foreign nation not participating with the United States and not otherwise involved in the action;
(c) major Federal actions significantly affecting the environment of a foreign nation which provide to that nation:

(1) a product, or physical project producing a principal product or an emission or effluent, which is prohibited or strictly regulated by Federal law in the United States because its toxic effects on the environment create a serious public health risk; or

(2) a physical project which in the United States is prohibited or strictly regulated by Federal law to protect the environment against radioactive substances.

(d) major Federal actions outside the United States, its territories and possessions which significantly affect natural or ecological resources of global importance designated for protection under this subsection by the President, or, in the case of such a resource protected by international agreement binding on the United States, by the Secretary of State. Recommendations to the President under this subsection shall be accompanied by the views of the Council on Environmental Quality and the Secretary of State.

The purpose of this amendment/EIS is to increase the spawning biomass of the spiny lobster population in the waters of the Caribbean and tropical western Atlantic (the oceans). It has been determined in section 6 there will be significant biological affects in a positive form; and as indicated numerous times throughout the document, the restrictions considered in this document were developed in accordance with a number of international agreements and accords passed by foreign nations.

9.9.2 E.O. 12866: Regulatory Planning and Review

Executive Order 12866: Regulatory Planning and Review, signed in 1993, requires federal agencies to assess the costs and benefits of their proposed regulations, including distributional impacts, and to select alternatives that maximize net benefits to society. To comply with E.O. 12866, NOAA Fisheries prepares a Regulatory Impact Review (RIR) for all fishery regulatory actions that either implement a new fishery management plan or significantly amend an existing plan. RIRs provide a comprehensive analysis of the costs and benefits to society associated with proposed regulatory actions, the problems and policy objectives prompting the regulatory proposals, and the major alternatives that could be used to solve the problems. The reviews also serve as the basis for the agency's determinations as to whether proposed regulations are a "significant regulatory action" under the criteria provided in E.O. 12866 and whether proposed regulations will have a significant economic impact on a substantial number of small entities in compliance with the RFA. A regulation is significant if it is likely to result in an annual effect on the economy of at least $100,000,000 or has other major economic effects.

9.9.3 E.O. 12630: Takings

The Executive Order on Government Actions and Interference with Constitutionally Protected Property Rights, which became effective March 18, 1988, requires that each federal agency prepare a Takings Implication Assessment for any of its administrative, regulatory, and legislative policies and actions that affect, or may affect, the use of any real or personal property. Clearance of a regulatory action must include a takings statement and, if appropriate, a Takings Implication Assessment. Management measures limiting fishing seasons, areas, quotas, fish size limits, and bag limits do not appear to have any taking implications. There is a takings implication if a fishing gear is prohibited, because fishermen who desire to leave a fishery might be unable to sell their investment, or if a fisherman is prohibited by federal action from exercising property rights granted by a state.

9.9.4 E.O. 13089: Coral Reef Protection

The Executive Order on Coral Reef Protection (June 11, 1998) requires federal agencies whose actions may affect U.S. coral reef ecosystems to identify those actions, utilize their programs and authorities to protect and enhance the conditions of such ecosystems; and, to the extent permitted by law, ensure that actions they authorize, fund or carry out not degrade the condition of that ecosystem. By definition, a U.S. coral reef ecosystem means those species, habitats, and other national resources associated with coral reefs in all maritime areas and zones subject to the jurisdiction or control of the United States (e.g., federal, state, territorial, or commonwealth waters).

9.9.5 E.O. 13112: Invasive Species

The Executive Order requires agencies to use authorities to prevent introduction of invasive species, respond to and control invasions in a cost effective and environmentally sound manner, and to provide for restoration of native species and habitat conditions in ecosystems that have been invaded. Further, agencies shall not authorize, fund, or carry out actions that are likely to cause or promote the introduction or spread of invasive species in the U.S. or elsewhere unless a determination is made that the benefits of such

actions clearly outweigh the potential harm; and that all feasible and prudent measures to minimize the risk of harm will be taken in conjunction with the actions. The actions undertaken in this amendment will not introduce, authorize, fund, or carry out actions that are likely to cause or promote the introduction or spread of invasive species in the U.S. or elsewhere.

9.9.6 E.O. 13132: Federalism

The Executive Order on federalism requires agencies in formulating and implementing policies that have federalism implications, to be guided by the fundamental federalism principles. The Order serves to guarantee the division of governmental responsibilities between the national government and the states that was intended by the framers of the Constitution. Federalism is rooted in the belief that issues that are not national in scope or significance are most appropriately addressed by the level of government closest to the people. This Order is relevant to FMPs and amendment given the overlapping authorities of NOAA Fisheries, the states, and local authorities in managing coastal resources, including fisheries, an the need for a clear definition of responsibilities. It is important to recognize those components of the ecosystem over which fishery managers have no direct control and to develop strategies to address them in conjunction with appropriate state, tribes and local entities (international too). The proposed management measures in this Amendment to the Spiny Lobster FMPs of the Caribbean and the South Atlantic/Gulf of Mexico have been developed with the local, federal and international officials.

9.9.7 E.O. 13141: Environmental Review of Trade Agreements

This Executive Order requires the U.S. Trade Representative, through the interagency Trade Policy Staff to conduct environmental reviews of three of the most common agreements: comprehensive multilateral trade rounds, bilateral or multilateral free-trade agreements, and major new trade liberalization agreements in natural resource sectors. Although the procedures for environmental impact assessment in Executive Order 13141 are not subject to NEPA, they follow similar guidelines. Understanding the importance of this E.O. in relation to this Amendment/EIS, NOAA Fisheries Service has made a concerted effort to involve the USTR and other agencies involved with trade negotiations to inform them of the intention of the actions being undertaken by the Councils and NOAA Fisheries Service.

9.9.8 E.O. 13158: Marine Protected Areas

Executive Order 13158 (May 26, 2000) requires federal agencies to consider whether their proposed action(s) will affect any area of the marine environment that has been reserved by federal, state, territorial, tribal, or local laws or regulations to provide lasting protection for part or all of the natural or cultural resource within the protected area.

9.9.9 E.O. 12898: Environmental Justice

This Executive Order mandates that each Federal agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations in the United States and its territories and possessions. Federal agency responsibilities

under this Executive Order include conducting their programs, policies, and activities that substantially affect human health or the environment, in a manner that ensures that such programs, policies, and activities do not have the effect of excluding persons from participation in, denying persons the benefit of, or subjecting persons to discrimination under, such, programs policies, and activities, because of their race, color, or national origin. Furthermore, each federal agency responsibility set forth under this Executive Order shall apply equally to Native American programs.

Specifically, federal agencies shall, to the maximum extent practicable; conduct human health and environmental research and analysis; collect human health and environmental data; collect, maintain and analyze information on the consumption patterns of those who principally rely on fish and/or wildlife for subsistence; allow for public participation and access to information relating to the incorporation of environmental justice principals in Federal agency programs or policies; and share information and eliminate unnecessary duplication of efforts through the use of existing data systems and cooperative agreements among Federal agencies and with State, local, and tribal governments. The proposed actions would be applied to all participants in the fishery, regardless of their race, color, national origin, or income level, and as a result are not considered discriminatory. Additionally, none of the proposed actions are expected to affect any existing subsistence consumption patterns. Therefore, no environmental justice issues are anticipated and no modifications to any proposed actions have been made to address environmental justice issues.

9.10 Marine Mammal Protection Act

The MMPA established a moratorium, with certain exceptions, on the taking of marine mammals in U.S. waters and by U.S. citizens on the high seas. It also prohibits the importing of marine mammals and marine mammal products into the United States. Under the MMPA, the Secretary of Commerce (authority delegated to NOAA Fisheries) is responsible for the conservation and management of cetaceans and pinnipeds (other than walruses). The Secretary of the Interior is responsible for walruses, sea otters, polar bears, manatees, and dugongs.

In 1994, Congress amended the MMPA, to govern the taking of marine mammals incidental to commercial fishing operations. This amendment required the preparation of stock assessments for all marine mammal stocks in waters under U.S. jurisdiction; development and implementation of take-reduction plans for stocks that may be reduced or are being maintained below their optimum sustainable population levels due to interactions with commercial fisheries; and studies of pinniped-fishery interactions. The MMPA requires a commercial fishery to be placed in one of three categories, based on the relative frequency of incidental serious injuries and mortalities of marine mammals. Category I designates fisheries with frequent serious injuries and mortalities incidental to commercial fishing; Category II designates fisheries with occasional serious injuries and mortalities; Category III designates fisheries with a remote likelihood or no known serious injuries or mortalities. To legally fish in a Category I and/or II fishery, a fisherman must obtain a marine mammal authorization certificate by registering with the Marine Mammal Authorization Program (50 CFR 229.4) and accommodate an observer

if requested (50 CFR 229.7(c)) and they must comply with any applicable take reduction plans.

The Caribbean spiny lobster trap/pot and Florida spiny lobster trap/pot fisheries are listed as part of a Category III fishery (72 FR 66048; November 27, 2007) because there has only been one documented interaction between these gears and marine mammals.

9.11 Paperwork Reduction Act

The Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 et seq.) regulates the collection of public information by federal agencies to ensure that the public is not overburdened with information requests, that the federal government's information collection procedures are efficient, and that federal agencies adhere to appropriate rules governing the confidentiality of such information. The PRA requires NOAA Fisheries to obtain approval from the Office of Management and Budget before requesting most types of fishery information from the public. This action contains no PRA requirements.

9.12 Small Business Act

The Small Business Act of 1953, as amended, Section 8(a), 15 U.S.C. 634(b)(6), 636(j), 637(a) and (d); Public Laws 95-507 and 99-661, Section 1207; and Public Laws 100-656 and 101-37 are administered by the SBA. The objectives of the act are to foster business ownership by individuals who are both socially and economically disadvantaged; and to promote the competitive viability of such firms by providing business development assistance including, but not limited to, management and technical assistance, access to capital and other forms of financial assistance, business training and counseling, and access to sole source and limited competition federal contract opportunities, to help the firms to achieve competitive viability. Because most businesses associated with fishing are considered small businesses, NMFS, in implementing regulations, must make an assessment of how those regulations will affect small businesses. Implications to small businesses are discussed in the RIR herein (Section 7).

9.13 Magnuson-Stevens Act Essential Fish Habitat Provisions

The Magnuson-Stevens Act includes EFH requirements, and as such, each existing, and any new, FMPs must describe and identify EFH for the fishery, minimize to the extent practicable adverse effects on that EFH caused by fishing, and identify other actions to encourage the conservation and enhancement of that EFH. The Council and NMFS have determined there are no adverse effects to EFH in this amendment as discussed in the Environmental Consequences section (Section 6).

9.14 Migratory Bird Treaty Act

Under the Migratory Bird Treaty Act (MBTA), it is unlawful to pursue, hunt, take, capture, kill, possess, trade, or transport any migratory bird, or any part, nest, or egg of a migratory bird, included in treaties between the United States and Great Britain, Mexico, Japan, or the former Union of Soviet Socialists Republics, except as permitted by regulations issued by the Department of the Interior (16 U.S.C. 703-712). Violations of the MBTA carry criminal penalties; any equipment and means of transportation used in activities in violation of the MBTA may be seized by the United States government and,

upon conviction, must be forfeited to it. To date, the MBTA has been applied to the territory of the United States and coastal waters extending three miles from shore. Furthermore, Executive Order 13186 (see Section 9.5.9) was issued in 2001, which directs federal agencies, including NOAA Fisheries, to take certain actions to further implement the MBTA.

9.15 National Environmental Policy Act

The National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 et seq.) requires federal agencies to consider the environmental and social consequences of proposed major actions, as well as alternatives to those actions, and to provide this information for public consideration and comment before selecting a final course of action. Because NOAA Fisheries Service is proposing a major fishery action that may significantly affect the quality of the human environment, NOAA Fisheries Service has prepared this EIS to comply with NEPA and its implementing regulations.

9.16 Regulatory Flexibility Act

The purpose of the Regulatory Flexibility Act (RFA 1980, 5 U.S.C. 601 et seq.) is to ensure that federal agencies consider the economic impact of their regulatory proposals on small entities, analyze effective alternatives that minimize the economic impacts on small entities, and make their analyses available for public comment. The RFA does not seek preferential treatment for small entities, require agencies to adopt regulations that impose the least burden on small entities, or mandate exemptions for small entities. Rather, it requires agencies to examine public policy issues using an analytical process that identifies, among other things, barriers to small business competitiveness and seeks a level playing field for small entities, not an unfair advantage.

After an agency determines that the RFA applies, it must decide whether to conduct a full regulatory flexibility analysis (IRFA or Final Regulatory Flexibility Analysis) or to certify that the proposed rule will not "have a significant economic impact on a substantial number of small entities. In order to make this determination, the agency conducts a threshold analysis, which has the following 5 parts: 1) Description of small entities regulated by proposed action, which includes the SBA size standard(s), or those approved by the Office of Advocacy, for purposes of the analysis and size variations among these small entities; 2) Descriptions and estimates of the economic impacts of compliance requirements on the small entities, which include reporting and recordkeeping burdens and variations of impacts among size groupings of small entities; 3) Criteria used to determine if the economic impact is significant or not; 4) Criteria used to determine if the number of small entities that experience a significant economic impact is substantial or not; and 5) Descriptions of assumptions and uncertainties, including data used in the analysis. If the threshold analysis indicates that there will not be a significant economic impact on a substantial number of small entities, the agency can so certify.

9.17 Small Business Act

Enacted in 1953, the Small Business Act requires that agencies assist and protect small-business interests to the extent possible to preserve free competitive enterprise.

9.18 Public Law 99-659: Vessel Safety

Public Law 99-659 amended the Magnuson-Stevens Act to require that a FMP or FMP amendment must consider, and may provide for, temporary adjustments (after consultation with the U.S. Coast Guard and persons utilizing the fishery) regarding access to a fishery for vessels that would be otherwise prevented from participating in the fishery because of safety concerns related to weather or to other ocean conditions.

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12.0 LIST OF AGENCIES, ORGANIZATIONS, AND PERSONS TO WHOM COPIES OF THE STATEMENT ARE SENT

Department of Commerce Office of General Counsel
Environmental Defense
Florida Fish and Wildlife Conservation Commission
Florida Keys Commercial Fishermen's Association
National Fisheries Institute
National Marine Fisheries Service Office of General Counsel
National Marine Fisheries Service Office of General Counsel for International Law
National Marine Fisheries Service Office of General Counsel Southeast Region
National Marine Fisheries Service Southeast Regional Office
National Marine Fisheries Service Southeast Fisheries Science Center
National Marine Fisheries Service Silver Spring Office
National Marine Fisheries Service Office of Law Enforcement
Puerto Rico Department of Natural and Environmental Resources
State Department
United States Coast Guard
United States Fish and Wildlife Services
United States Trade Representative
USVI Department of Planning and Natural Resources

13.0 INDEX

ABC, vi
Bycatch reduction, vi
CEQ, x, 97
Closed season, 39, 44, 45, 46, 52, 55, 6, 9
CPUE, vi
Cumulative effects, 96, 97, 99
Direct effects, 91
EFH, vi, 97, 140
EIS, vi, 1, 9, 11, 14, 15, 98, 99, 100, 136, 138
Environmental justice, 138
FMSY, vii
Indirect effects, 88, 92, 93
License, viii, 47, 48, 49, 50, 57, 62, 135, 8
M, vii, 25, 77, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151
Marine mammals, 23, 138, 139, 143
MFMT, vii
MRFSS, vii
MSFCMA, vii, 131, 132
MSST, vii
MSY, vi, vii
NEPA, viii, x, 96, 138, 140
Open season, 52, 9
Optimum yield, viii, 7, 8, 39, 95, 98
Overfished, 84, 3, 5
Overfishing, 2, 39, 95, 108, 117, 123, 129, 3, 6
OY, viii, 98
RIR, viii, x, 103, 104, 125, 136, 140
Sea turtles, 24, 25, 133, 134, 142, 143, 144, 147, 148, 150, 151
SFA, viii, 2
SIA, x
Size limit, 1, 2, 3, 4, 6, 8, 15, 29, 39, 41, 45, 86, 87, 89, 90, 91, 93, 102, 112, 116, 136, 2, 3, 4
Small Business Act, 139
Spawning Stock Biomass, viii, 1, 2, 9, 14, 15, 91, 98, 99, 100
SPR, viii
Stock assessment, viii, 139
TAC, viii

APPENDICES

APPENDIX A – Office of Law Enforcement Case Documents
APPENDIX B – Scoping Comments

APPENDIX A – Office of Law Enforcement Case Documents

MACRO SEAFOODS INC.
SEAFOOD EXPERIENCE SINCE 1971.

)O N.W. 77TH AVE,
SUITE 26
HIALEAH GARDENS FL 33016

TEL: (305) 827-5001
FAX:(305)827-5003
E-MAIL: SHAINDELE@AOL.COM

AUGUST 15, 2000

The seller admits to shipping 3 oz tails, then follows that statement up with the crackdown on under 5 oz tails (which are all illegal tails), but offers a solution to continue the trade in illegal size tails

ACE,

SHIPMENT LEAVING WEDNESDAY FROM NICA WITH APPROX 2800 LBS OF 3 OZ

THEY HAVE CLOSED DOWN THE BUYING OFFICES AT THE WHARF AS THERE IS ALOT OF PRESSURE (FOR NOW) ON UNDER 5 OZ, SO I EXPECT THIS BUSINESS WILL HAVE TO COME RECTLY FROM KEYS AND NOT THRU NORMAL SELLERS, THIS SIZE WILL BECOME ARCER.

INSURANCE: RECEIVED CALL THAT PROBABLITY OF PUTTING THE PACKAGE YOU REQUESTED IS LOOKING GOOD AND I MAY HAVE CALL THIS AFTERNOON.

P.

MACRO SEAFOODS INC.
SEAFOOD EXPERIENCE SINCE 1971.

O N.W. 77TH AVE,
SUITE 26
HIALEAH GARDENS FL 33016

TEL: (305) 827-5001
FAX:(305)827-5003
E-MAIL; SHAINDELE@AOL.COM

AUGUST 16/00

ACE,

APPROX 800-900 LBS OF LOBSTER MEAT FROM NICA DUE TO ARRIVE ON SAME BOAT AS 3 OZ

PRICE $8.75/LB

CAN YOU SELL THIS ? yes

LET ME KNOW

PETER

The buyer is notified their illegal 3 oz lobster tails are on the way with an inquiry as to whether they could sell lobster "meat." This is important because it is the beginning of the "meat" sale and seems to coincide exactly with the information concerning the crackdown on tails under 5 oz., again another way to continue with illegal business as usual

MACRO SEAFOODS INC.

SEAFOOD EXPERIENCE SINCE 1971

9500 N.W. 77TH AVE,SUITE 26
HIALEAH GARDENS, FL 33016

TEL: 305-827-5001
FAX ; 305-827-5003

SOLD TO ; **NEPTUNE FISHERIES INC.**
5714 CURLEW DRIVE
NORFOLK VA 23502

AUGUST 18, 2000

INVOICE # 2103

CASES	SIZE	NET WT.	LOBSTER TAILS	PRICE PER LB/UB DISCOUNTED	AMOUNT
65 CS	3 OZ	2600 LBS	FROZEN IQF MARAZUL BRAND	$10.90	$28,340.00
16 CS		640 LBS	LOBSTER MEAT NICA BRAND	$8.75	$ 5,600.00

Lobster meat shows up on the invoice along with the 3 oz tails. This invoice shows the sale of 3,240 lbs of illegal, undersized lobster

PRODUCT OF NICARAGUA

AMOUNT $ 33,940.00

NO OF CASES: 81

SENT "IN BOND" VIA BESTWAY TRANSPORT FROM MIAMI

APPENDIX B – Summary of Scoping Comments

SPINY LOBSTER SCOPING – ISLAMORADA, FL
JANUARY 24, 2008
DRAFT SUMMARY NOTES:

Mr. Eugenio Pineiro, Chairman of the Caribbean Council, read the chairman's statement on behalf of the Caribbean, Gulf, and South Atlantic Fishery Management Councils. Other members of the scoping meeting board were as follows: Tony Iarocci, chair of the South Atlantic Council's spiny lobster committee; Miguel Rolon, Executive Director of the Caribbean Council; Gregg Waugh, Deputy Executive Director of the South Atlantic council; Joe Kimmel, NMFS SERO; and Diana Martino, Caribbean council staff.

There were 9 members of the public present.

Gregg Waugh presented an overview of the scoping document and issues under consideration.

Karl Lessard – reviewed the Gulf Council's Spiny Lobster AP position: the AP supported Approach 1.

Gary Graves – Keys Fisheries, Marathon, Florida. Industry in his area support Approach 1; they also support prohibiting scrubbing tails, possession of berried lobsters, etc. They are concerned about using tail weight; fishermen can measure length on a boat but not weight. Fishermen may bring lobsters in that can't be exported because they don't meet the minimum size limit. They support 5.5" tail length for imports from the whole Caribbean. He distributed a sheet with information on production from his plant for tails that measure 5.5" and their weight; tails from shedding/molting lobsters may not weigh as much.

Bruce Irwin – member of South Atlantic Council Spiny Lobster AP. He thanked the CFMC for taking the initiative to address this issue to protect the stock of lobster. He supports Approach 1 with one point of concern about the weight as mentioned by Gary Graves.

Scot Zimmerman – FL Keys Commercial Fishermen's Association. We will be submitting written comments. Generally support the Councils' efforts to address imports. Support Approach 1. Concerned about a decline in landings in Florida and feel it is due to harvest of small lobsters in the Caribbean area. Mentioned a concern about the collection of wild juveniles for grow-out and potential impacts on the lobster stock.

Tom Hill – Key Largo Fisheries and a member of SFA. Support Approach 1. He is concerned about using weight because it changes with the size of tail due to molting, etc.

Tom Mathews – mentioned the concern of Paul Raymond (NMFS Law Enforcement) to consider the tail weight to aid enforcement. Writing the regulations as an import rule would address the concerns of industry because the tail weight requirement would only apply to imports. A number of Caribbean countries have a voluntary (memorandum of

agreement) 4.5 – 5.4 ounce tail size rule (ESPESKA) and this is what the countries want to see as an import regulation. Weight is important for tracking imports; this is very important for law enforcement and for making legal cases.
The scoping meeting ended at 7 p.m.

APPROACH 1 FROM THE SCOPING DOCUMENT

Approach 1 would be to prohibit imports smaller than the existing U.S. minimum size limits. For example, no one in the Continental U.S. would be allowed to import a Caribbean spiny lobster (Panulirus argus):

1. Less than 3.0 inches (7.62 cm) carapace length if the animal is whole.
2. Less than 5.5 inches (13.97 cm) tail length if only the tail is present.
3. Less than 5 ounces if want a tail weight (e.g., 4.2 – 5.4 ounces).

For Puerto Rico and the U.S. Virgin Islands, no one would be allowed to import a Caribbean spiny lobster (Panulirus argus):

1. Less than 3.5 inches (8.89 cm) carapace length if the animal is whole.
2. Less than 6.2 inches (15.75 cm) tail length if only the tail is present.
3. Less than 5.9 ounces if want a tail weight (need to specify what 5.9 or 6 ounces means in the industry).

CARIBBEAN FISHERY MANAGEMENT COUNCIL
268 Muñoz Rivera Ave.
Suite 1108
San Juan PR 00918-1920
Scoping Meetings
Summary
October 10, 2007

The Caribbean Fishery Management Council is requesting public comment on the following issues:
Queen Conch: Management alternatives for the queen conch fishery in the exclusive economic zone (EEZ) off St. Croix, USVI. The EEZ off Lang Bank (East of St. Croix) is seasonally open for harvesting of queen conch and regulations are in place that limit the size, establish a seasonal closure (July-September) and limits the harvest of commercial and recreational fishers. The Government of the Territory of the US Virgin Islands has extended the seasonal closure of queen conch from July 1 to December 31, in the territorial waters in St. Croix and has requested that the Council establish compatible regulations in the EEZ. The USVI have also established a quota for the fishery of 50,000 pounds per year. The alternatives considered by the Council include (1) No Action; (2) establishing compatible regulations (extended seasonal closure and 50,000 pounds per year) and (3) a complete closure of the queen conch fishery in the US Caribbean EEZ.

Escape Vents in traps: In order to reduce bycatch and fishing mortality in the stocks that are overfished, undergoing overfishing and approaching an overfishing condition, the Council is considering the use of escape vents in fish traps and lobster pots. A number of

options are being considered: ranging from one escape vent with shapes and sizes that could be rectangular (1" x 3" to 2" x 4"), circular (2.5" to 5") or diamond shape (4.0" x 2" to 5.0" x 2.5"); 2 escape vents of each of the shapes and sizes mentioned above; 2 escape vents of different shapes and sizes (combination of one rectangular and one circular, etc.); and no action for fish traps. The same alternatives are considered for the lobster pots but the sizes of the rectangular shapes range from 2" x 20" to 21/4" x 20".

Spiny Lobster: In this case, the management alternatives to implement a minimum size limit on imported spiny lobster may include, but are not limited to: a "no action"; alternatives to restrict the minimum import size based on carapace length; alternatives to restrict the minimum import based on tail length; and alternatives to restrict the importation of meat, which is not whole lobster or tailed lobster.

Scoping Meetings for Queen Conch, Lobster and Reef fish (traps and pots)
Summary of Comments
October 16,2007
Holiday Inn Windward Passage Hotel
St. Thomas, U.S.V.I.

1. Roberto Tapia - Enforcement DPNR
Additional enforcement staff members should be onboard by the end of next year for the U.S.V.I. Provided **no comments on the lobster**, queen conch, and reeffish issues.

2. David Berry - Commercial Fisherman
Queen Conch: Do not impose a closure (cost jobs).
Need re-stocking, hatchery production.
Spiny lobster: Juvenile lobsters being fished is the right thing to do.
Escape vents: No action.
Other comments: Support for the fishermen instead of fighting fishermen.

3. Julian Magras - Chairman, St. Thomas Fishermen's Association
Queen conch: No action.
Spiny lobster: Supports a carapace length of 3.5" for imports.
Escape vents: Regulations do not &ect Puerto Rico (with a trap fishery in decline), nor the St. Croix fisherman (only 1 fishing trap) but directed to St. Thomas fishermen. The federal jurisdiction is 67% of the USVI area and this is discrimination, and 85% of trap fishers in St. Thomas. (See statement attached). No action.

4. David Olsen - Director, U.S.V.I. Division of Fish and Wildlife
Agrees with the comments made by Julian Magras

5. Louis Blanchard - Commercial Fisherman
Queen conch: No action.
Spiny lobster: No action.
Escape vents: Need to wait for results on the escape vents study currently underway in St. Thomas. No action.

6. Michael Beny - Commercial Fisherman
Queen conch: No opinion.
Spiny lobster: Only allow lobsters as big as, or bigger than local size allowed (1 3.5" carapace length).
Escape vents: No action.

7. Jimmy Magner - Commercial Fisherman
Queen conch: Queen conch is not overfished in St. Croix (cited SEDAR 2007). Keep St. Croix open. (No action). If proven to be decreasing, then put a catch limit. Insufficient data. Studies are needed to gather more data.
Spiny lobster: Imports into the US should not be allowed if lobster size is less than 3.5" carapace length.
Escape vents: No action until survey is finished.

8. Harry Clinton - Recreational Fisherman
Agrees with the comments previously made. Local groups are already taking steps to protect the fisheries in the U.S.V.I., there is no need for the federal government to impose more regulations.
Queen conch: No comment.
Spiny lobster: Agrees with a carapace length of 3.5" for imports.
Escape vents: No comment.

9. Warren Querrard and Danny Beny - Commercial Fishermen
Queen conch: No action.
Spiny lobster: Agrees with a carapace length of 3.5" for imports.
Escape vents: No action.

10. Ricky LaPlace - Commercial Fisherman
Queen conch: No action.
Spiny lobster: Agrees with a carapace length of 3.5" for imports
Escape vents: No action.

11. Braison Bryant and father Terry Bryant - Commercial Fishermen
Queen conch: No comment.
Spiny lobster: Agrees with a carapace length of 3.5" for imports.
Escape vents: No action.

12. Ernest Quentel- Commercial Fisherman
Queen conch: Seasonal closure.
Spiny lobster: Agrees with a carapace length of 3.5" for imports.
Escape vents: No action. The escape panel suggested would make the fishermen lose 95% of their catch.

October 17,2007
Buccaneer Hotel, St. Croix, U.S.V.I.

1. Leopold Giddens - Commercial Fisherman, Fredericksted
There are 250 licensed commercial fishers in St. Croix and at least 75% of them should be present. DPNR needs to present the data.
Queen conch: No comment.
Spiny lobster: No comment.
Escape vents: No comment.

2. Edward Schuster - Chairman, Fisheries Advisory Committee (FAC) and
President of St. Croix Fishermen Association
Queen conch: The FAC recommends a 5-month closure. DPNR established a 6-month closure. The FAC recommended changing the bag limit of 150 conchs per fisher to 200 conchs per boat to prevent overfishing. There is a need to self-regulate. A study needs to be conducted during the seasonal closure to assess the population for a more accurate account of the population. The FAC recommended to use 3 clean, 2 unclean conchs to the pound, instead of bringing the shell to shore. There are problems with dumping sites. It represents a risk to travel with the shells onboard. There should be no imports of queen conch during the closed season.
Spiny lobster: A study on larvae recruitment should be conducted in St. Croix. No comment on imports size.
Escape vents: Lobster traps not used in St. Croix but multi-purpose traps for fish and lobster. The Council should consider conducting a trap vents study in St. Croix, since the St. Croix fishers use hexagonal mesh instead of the square mesh used in St. Thomas.

3. Baltazar Felix IU - Commercial Fisherman
Queen conch: No Action. If not able to maintain fishery, then extend the closure.
Spiny lobster: No comment.
Escape vents: No comment.

4. Roltalia Nisbett – St Croix Resident
Queen conch: Allowance of 200 queen conchs per boat rather than 150 per fisher. No additional months of closure.
Spiny lobster: No comment.
Escape vents: No comment.

5. Frank Johnston – Conch Diver
Queen conch: Maintain the regulations as they are (three-month closure).
Hire more people during the months of closure to enforce the law.
Spiny lobster: Lobster imports should be compatible with local laws (3.5" carapace length).
Escape vents: Not needed, since the current mesh size and the escape panel already established are working good. No action.

6. Joseph Gilbert – Commercial Fisherman
Queen conch: Christmas is a very important time for conch fishers. No closure during the month of December. There was a recent incident on loitering by shells [NOTE: the regulations, both state and federal, require that conch be brought to shore intact, in the shell. These shells are dumped at various sites including areas of tourism. A judge ordered the shells to be dumped at sea.]
Spiny lobster: No comment.
Escape vents: No comment.

7. Gerson Martinez - Commercial Fisherman
Queen conch: Closed season should be from June to October 31. Conch is not depleted in St. Croix. Closure should be postponed until further studies are conducted.
Spiny lobster: Lobster imports should be compatible with local laws (3.5" carapace length).
Escape vents: No action. The mesh size used in St. Croix is working. Escape vents would represent a considerable economic loss.

9. Robert Thomas - St. Croix Resident
Comments on the logic of reporting 10 pounds of conch, which would be considered too little, and 100 pounds, which would be considered too much; either way the fishermen looses and there will be more regulations. Things are bad in the Island. There is no enforcement.
Queen conch: Leave the month of December open. There is a problem with the shells, they destroy the bottom of the vessels.
Spiny lobster: No comment.
Escape vents: No comment.

October 23,2007
Pierre Hotel
San Juan, Puerto Rico

1. Hector Mpez - Port Agent, Department of Natural and Environmental Resources (DNER)
Requested information from Dr. Olsen regarding the conch that remains in the freezer during the closure - how can they track what was caught before the season? How to prove it is not imported?
Queen conch: No comment.
Spiny lobster: No comment
Escape vents: No comment.

2. Aida Rosario - DNER Secretary's Designee
Queen conch: This is a matter for the U.S.V.I.
Spiny lobster: Agrees with a carapace length of 3.5" for imports, but Puerto Rico would have to revise the interstate law for imports to see how it would be applied.
Escape vents: Mesh size works; studies done at the Fisheries Research Laboratory show that the mesh size (1.5" hex and 2" square) were the most productive and still allow for

the escape of juveniles. Larger mesh sizes were not economically a good return. Need to study measures that are not protecting the resource and the impact on fishers.

October 24,2007
Ponce Hilton Hotel
Ponce, Puerto Rico

1. Maria Roman Reyes- Juana Diaz resident
Queen conch: No comment.
Spiny lobster: No comment.
Escape vents: There is no enforcement and the fishers are not marking their traps because they get stolen. They do not want to use GPS, etc., but keep the way of living. The regulations are so complicated that high school drop-outs are not entering the fishery.

2. Luis S. Rodriguez - Commercial Fisherman, Guayama Villa Pesquera Punta Pozuelo
Queen conch: No comment
Spiny lobster: No comment
Escape vents: The mesh size works. The material that is available now will not allow for cutting the mesh, it will make the trap too weak.

3. Miguel Ortiz - President, Villa Pesquera Pozuelo
Recreational fishers are fishing more and selling the catch. There is no enforcement and no license requirements for recreational fishers in place yet. Dorado and other species harvested during tournaments are sold. This happens everywhere around the Island.
Queen conch: No comment
Spiny lobster: Agrees with a carapace length of 3.5" for imports.
Escape vents: No action. It would hurt the fishermen. They would lose a lot of fishes that they are allowed to catch. Too much paper work, regulations in state waters and federal regulations do not help. The red hind seasonal closure is not working, too much fish wasted - area closures would work better, but the seasonal closure for the snapper works well. The imports are also competition because is fish for less money. No support has been given to the regulations that are in place.

4. Julio Reyes - Commercial Fisherman, Pescaderia Pastille, Juana Diaz
Queen conch: No comment
Spiny lobster: Agrees with a carapace length of 3.5" for imports
Escape vents: No action

October 25,2007
Mayaguez Holiday Inn
Mayaguez, Puerto Rico

1. Victor Padilla - Commercial Fisherman
Queen conch: No comment
Spiny lobster: Agrees with a carapace length of 3.5" for imports

Escape vents: No Action. The material available for traps today is very bad. The costs have increased. People are retiring from fishing because there are too many regulations and it is expensive to fish. The trap mesh oriented vertically, instead of horizontally allow small fish to escape (> 1.5 inch height). This might be a better solution rather than having an escape vent in the trap. Need to study the fishing with mallorquines (3 panels) being used for fishing lobsters. It does not allow the lobster to [walk] march, migrate. These nets trap everything, lobsters by the hundreds and small. The lobsters fished this way loose their legs, antennae, etc., and many other species are affected too. In contrast, the fishers know where to set the traps.

2. Andres Maldonado - Commercial Fisherman, Cab0 Rojo
Queen conch: The peak spawning season for queen conch is September (2nd week) and October. Open July and close October. Enforcement is not being done as it should, since the market is already flooded the first week of the open season. Fishing is being done during the closed season. The new regulations for St. Croix are not going to work since there is no enforcement, and the increased closure would force illegal actions. A three-month closure is not easy.
Spiny lobster: If lobster is one stock, maintain same opportunity for lobster spawning with the 3.5" carapace length size for imports.
Escape vents: No comment

3. Pedro Silva - Commercial Fisherman, Mayaguez
Queen conch: No comment
Spiny lobster: Agrees with a carapace length of 3.5" for imports
Escape vents: No action. Mallorquines and chinchorros are more damaging to fish. There is an enforcement problem. There are no regulations for recreational fishers, or no enforcement of regulations for the recreational fishers. Recreational fishers sell their catch against the law. Interventions at sea are only with commercial fishers and not with recreational. Enforcement agents need training.

November 13,2007
Curriculum Center
St. Croix, U.S.V.I.
(Second Scoping Meeting requested by the Fishermen)

1. Tom Daley - Commercial Fisherman
Mr. Daley brought a replica of the suggested escape vent and various species of fish to demonstrate how legally caught fish fall through the escape vent of more than 1" by 4".
Queen conch: Supports the six month closure for conch, as well as establishing a quota.
Spiny lobster: No comment.
Escape vent: The 1" by 4" allows the juveniles to escape. Any other size would be useless. St. Croix should be dealt with separately from St. Thomas and Puerto Rico in terms of the management measures that are put in place. The economy is in bad shape in St. Croix, and many people look at fishing as an alternative to make a living.

2. Edward Schuster - Commercial Fisherman
Queen conch: The closure should be £tom June to November, it should not run until December. Peak period for spawning runs until November. Supports the quota and the six-month closure. Studies should be conducted before having any more closures. Fishermen are more than willing to cooperate in the studies.
Spiny lobster: No comment.
Escape vents: No comment.

3. Gerson Martinez - Commercial Fisherman
Queen conch: Supports a six-month closure from June through November. December is not a peak spawning month.
Spiny lobster: No comment.
Escape vents: 2" by 4" and 2" by 6" allows all species of fishes that are caught legally to escape. No action.

4. Carlos Farchetti - Chief of Enforcement, U.S.V.I.
Queen conch: Supports the six-month closure From June through November. There are a lot of juvenile conch areas. More data should be gathered and presented to conclude if the conch is really in danger. Suggests having these juvenile areas videotaped, without identifying the location.
Spiny lobster: No comment.
Escape vents: No comment.

5. Winston Ledee - Commercial Fisherman, St. Thomas
Queen conch: Supports a six-month closure from June to November
Spiny lobster: No comment.
Escape vents: No action until studies are finished. There is no need for escape vents in lobster traps.