JOHN BEL EDWARDS
GOVERNOR

State of Louisiana
DEPARTMENT OF WILDLIFE AND FISHERIES

JACK MONTOUCET
SECRETARY

February 9, 2017

Michael Barnette
Southeast Regional Office
NMFS
263 13th Avenue South
St. Petersburg, FL 33701

RE: *RIN 0648-BG45 Proposed rule to require all skimmer trawls, pusher-head trawls, and wing nets (butterfly trawls) to use turtle excluder devices (TEDs) designed to exclude small turtles*

Dear Mr. Barnette:

The Louisiana Department of Wildlife and Fisheries (LDWF) has reviewed the proposed rule to withdraw the tow time restriction and require all skimmer trawls, pusher-head trawls, and wing nets (butterfly trawls) to use Turtle Excluder Devices (TEDs) designed to exclude small sea turtles. Louisiana leads the nation in domestic shrimp production. Skimmer trawls, most commonly used in Louisiana, account for a significant amount of Louisiana's shrimp landings, about 41 percent of the total from 2000-2013. As such, the proposed rule would disproportionately adversely impact Louisiana's shrimping industry, fishing communities, and economy. More observer and socioeconomic impact data are needed to support these proposed regulatory changes. Furthermore, reductions to incidental bycatch and mortality of sea turtles in this fishery can be achieved through other means with significantly less impact on Louisiana's communities and economy.

According to the Draft Environmental Impact Statement (DEIS), the proposed rule would affect between 2,847 (Alternative 4) and 8,401 (Alternatives 6-7) vessels in the Gulf of Mexico and result in adverse economic effects between $8.76 million (Alternative 4) and $38.8 million (Alternatives 6-7), depending on the approved alternative. The preferred alternative (Alternative 3) would impact 5,660 vessels, with total gross revenue loss from shrimp catch reduction estimated at $6.14 million and added costs from purchasing TEDs estimated at $7.35 million. This equates to a total economic burden of $13.5 million in the first year of implementation alone. Even Alternative 4, with the lowest estimated adverse economic effect of $8.76 million, would still have tremendous repercussions for Louisiana's shrimp industry, which is already operating at small economic margins given low shrimp prices and high fuel costs.

Reducing gross revenue and adding another operating cost to the shrimp industry could put many shrimp fishermen out of business. The DEIS estimates the number of vessels expected to cease shrimping operations would range from 778 (Alternative 4) to 3,718 (Alternatives 6-7), resulting in widespread impacts to Louisiana's shrimp industry, communities, and economy. While some of these vessels are considered "part-time" and participate in other fisheries during the year, they depend on shrimping as part of their income. TEDs will also reduce the amount of larger, marketable fish caught and sold by shrimpers, further impacting their ability to make a living.

Reducing the fleet would directly result in a decrease in landings, with subsequent impacts to related businesses. For example, docks would have fewer shrimp to buy and sell, and sales of ice, supplies, and fuel would decrease. According to the DEIS, Gulf of Mexico shrimp dealers are specialized, and more than 80 percent of their total seafood purchases are shrimp. In addition, many dealers are actually vessel owners and fishermen who act as their own dealers; therefore, as vessels cease operations, so do dealers. Like dealers, Gulf shrimp processors are also very specialized; shrimp accounts for more than 90 percent of the total value of their processed products. All Gulf of Mexico shrimp processors rely on domestic shrimp production. The DEIS notes that average annual loss of processed value expected on a per-processor basis would range from $93,000 (Alternative 4) to $449,000 (Alternatives 6-7); however, LDWF believes these estimates are conservative and may be much higher. While these losses may be minor to larger processors, smaller processors would be greatly affected. The DEIS also suggests that the ready availability of imports should allow Gulf of Mexico processors to substitute imports for domestic product. This suggestion is unacceptable as domestic and imported shrimp are not comparable; domestic product is high-quality, wild-caught shrimp subject to strict environmental and food safety regulations and imports are typically cheaper, potentially lower quality farmed shrimp. As the DEIS notes, it would be difficult for processors to replace this lost value if imports are not of comparable value (which they are not).

The proposed rule would also reduce public access to domestic shrimp especially as many smaller vessels, such as those that use skimmer trawls, sell their product directly to the public. In addition, many smaller, non-commercial skimmer trawl vessels harvest shrimp recreationally for their own and their families' consumption; these vessels likely would also cease operating.

Furthermore, there are safety concerns related to requiring smaller vessels to install TEDs in skimmer nets, pusher-head trawls, and wing nets. Smaller vessels often operate with one person on board, limited amount of deck space, and in rough conditions posing hazardous circumstances. Shrimpers could sustain injuries from TEDs swinging from the rigging or even be knocked overboard.

LDWF questions the estimated sea turtle catch per unit effort rates based upon observed effort in the skimmer trawl fishery. According to data collected by NMFS on skimmer trawls in the Gulf of Mexico from 2012-2015, 39 sea turtles were captured during a total of 2,699.23 hours effort, with only two mortalities. These observed hours represent only 0.5 percent of the estimated total average effort of 539,394 hours. This estimated total average effort also includes effort by smaller vessels, which according to the DEIS "operate in shallow waters (e.g., 4-5 feet) of bays and lakes where sea turtles may not be expected to be as abundant as open water estuaries and in deeper channels." These observer data from skimmer trawls were collected on vessels that were more than 26 feet in length and fishing in water approximately 8 feet and deeper. Additionally, there are no observer data available from wing nets or pusher-head trawls. Extrapolating the skimmer trawl data to estimate incidental captures of sea turtles in the combined skimmer trawl, wing net, and pusher-head trawl fishery is inappropriate. This calculation fails to consider turtle capture data from smaller vessels and other gear while still including their effort in the calculations, resulting in inflated catch per unit effort rates. As a result, LDWF disputes NMFS' estimates of incidental captures of sea turtles in this fishery.

According to the DEIS, "Accurate population estimates for marine turtles do not exist because of the difficulty in sampling turtles over their geographic ranges and within their marine environments. Nonetheless, researchers have used nesting data to study trends in reproducing sea turtles over time." Nesting trends and nester abundance are on the rise, with record nesting numbers in some areas and a recent down-listing of the green sea turtle under the Endangered Species Act from endangered status to threatened status. In 2016, loggerhead nest counts at index beaches in Florida reached a record number of 65,807 nests, up from 28,074 nests counted in 2007. Those numbers do not reflect the total number of loggerhead nests in Florida and are only a count of representative areas repeated over years of surveys. Given the general upward trend of nesting and nesters as indicated in the DEIS, skimmer trawl, wing net, and pusher-head trawl fishing does not seem to negatively affect the recovery of these

species. Given the anticipated increase in populations of sea turtles, interactions in the northern Gulf of Mexico should also be expected to increase.

LDWF supports NMFS' proposal to amend the tow time definition to require that the entire net be removed from the water at the end of the tow. Not only does this ensure that sea turtles are not drowned in portions of the net not removed from the water, it also makes tow time requirements more enforceable. According to LDWF enforcement officials, it is much easier to observe a fisherman removing an entire net from the water than trying to observe a fisherman removing only the cod end of a net, especially when observing covertly from a distance. During public meetings regarding this proposed rule, NMFS noted that because the previous tow time requirement was difficult to enforce, it is not a good tool for reducing sea turtle mortality. However, if this definition is amended to require that an entire net to be removed from the water at the end of the tow, LDWF believes that tow time requirements can become a viable alternative for reducing sea turtle mortality.

Due to the concerns noted above, LDWF supports Alternative 1, no action. With the proposed amended tow time definition, it is likely that compliance with tow time requirements will increase and the trend towards sea turtle recovery will continue, negating the need to require TEDs in skimmer trawls, wing nets, and pusher-head trawls. The potential of Alternatives 2-7 for broader socioeconomic impacts on the state of Louisiana needs further examination, and more observer data are needed from a wider range of vessel lengths and areas fished to support these alternatives. However, because data currently exist for skimmer trawl vessels larger than 26 feet, it would be reasonable to also consider Alternative 4. In the event an alternative that requires vessels to have TEDs is selected, LDWF requests that implementation is spread over time to allow the fabrication and installation of TEDs. This could be accomplished by breaking vessels into size classes or by using landings and implementing the TED rules incrementally over 2-3 years.

LDWF appreciates the opportunity to review and provide recommendations regarding this proposed rule. If you have any further questions or concerns, please do not hesitate to contact Jeff Marx, LDWF's shrimp program manager, at 337-373-0032 or jmarx@wlf.la.gov

Sincerely,

Patrick D. Banks
Assistant Secretary
LDWF Office of Fisheries