

PART 247—DOLPHIN SAFE TUNA LABELING

7. Under the authority of 16 U.S.C. 1385, part 247 is removed.
[FR Doc. 96-13743 Filed 5-31-96; 8:45 am]
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50 CFR Part 620

[Docket No. 960126016-6149-05; I.D. 052196G]

General Provisions for Domestic Fisheries; Amendment to Closure for American Lobster in Block Island Sound

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

ACTION: Emergency interim rule; amendment.

SUMMARY: In response to a request from the State of Rhode Island, NMFS is amending the emergency interim rule that closed a portion of Federal waters off the coast of the State of Rhode Island in Block Island Sound to fishing and possession of lobsters subsequent to an oil spill. This amendment reduces further the area in which fishing for or possessing lobsters is prohibited.

EFFECTIVE DATE: May 29, 1996 through July 23, 1996.

FOR FURTHER INFORMATION CONTACT: Daniel Morris at (508) 281-9388.

SUPPLEMENTARY INFORMATION: On January 19, 1996, an oil barge grounded and spilled more than 800,000 gallons (3.0 million liters) of heating oil into the waters of Block Island Sound, RI. On January 26, 1996, NMFS, at the request of and in conjunction with the State of Rhode Island, prohibited the harvest of seafood from an area of approximately 250 square miles (647 square km) in Block Island Sound. The original area of closure was announced and defined in an emergency interim rule published in the Federal Register on February 1, 1996 (61 FR 3602).

On March 13, 1996, NMFS opened the entire area to fishing for and landing finfish and squid by gear types other than bottom trawl gear. This same action, published in the Federal Register on March 19, 1996 (61 FR 11164), expanded by approximately 28 square miles (72 square km) the area in which fishing for and landing lobsters, clams, and crabs were prohibited. Throughout the expanded closed area the use of lobster traps, bottom trawl or dredge gear was prohibited.

On April 9, 1996, the closure was amended further to allow all fishing to

resume, with the exception of lobstering in an area of approximately 42 square miles (109 square km) to the east and north of Block Island, RI. This action was published in the Federal Register on April 15, 1996 (61 FR 16401).

On April 24, 1996, testing of lobsters from the closed Federal area determined that evidence of oil adulteration persists in some of the samples. Therefore, the State requested that the Federal closure, which was due to expire on May 1, 1996, be extended. NMFS complied with the State's request and extended the closure's effective date from May 1, 1996, through July 23, 1996 (61 FR 20175, May 6, 1996).

Following the oil spill, State officials, in consultation with Federal agencies and the responsible party, developed a protocol for reopening fisheries in the affected area. The protocol sets sampling, inspection, and analysis standards, which, if met, would ensure that seafood is wholesome and would provide a basis for reopening fisheries.

In accordance with the protocol, State and Federal agencies have been testing the water and marine life in and around the closed area since the closure began. Seafood species have been subjected to inspection by sensory experts and chemical analysis. Though all seafood from the area has been determined to be safe for consumption, certain lobsters from one particular sector still show some evidence of oil adulteration. Therefore, NMFS, at the request of the State, is opening all areas to all fishing with the exception of the one sector (described below) where oil adulteration has been detected in lobsters. No person may fish for, possess, or land American lobsters from the closed area.

In order to avoid conflict with other amendments to § 620.7, the text of former paragraph (i) of that section is now placed in paragraph (m) of that section.

Classification

The Assistant Administrator for Fisheries, NOAA (AA), has determined that this rule is necessary to respond to an emergency situation and is consistent with the Magnuson Fishery Conservation and Management Act and other applicable law.

Testing has determined that consumption of seafood from a portion of the area closed prior to this action does not pose a threat to human health. Fishermen who operate in the area would suffer severe economic hardship unnecessarily if the current prohibition were to remain in effect. Hence, the AA finds that the foregoing constitutes good cause to waive the requirement to provide prior notice and the

opportunity for public comment, pursuant to authority set forth at 5 U.S.C. 553(b)(B), as such procedures would be contrary to the public interest. Further, as this provision relieves a restriction, it is made effective immediately pursuant to authority at 5 U.S.C. 553(d)(1).

This emergency rule has been determined to be not significant for the purposes of E.O. 12866.

This emergency rule is exempt from the procedures of the Regulatory Flexibility Act because this rule is not required to be issued with prior notice and opportunity for public comment.

List of Subjects in 50 CFR Part 620

Fisheries, Fishing.

Dated: May 28, 1996.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 620 is amended as follows:

PART 620—GENERAL PROVISIONS FOR DOMESTIC FISHERIES

1. The authority citation for part 620 continues to read as follows:

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

2. In § 620.7, paragraph (i) revised at 61 FR 16401, April 15, 1996, effective from April 19, 1996 through May 1, 1996, and extended at 61 FR 20175, May 6, 1996 from May 1, 1996 through July 23, 1996 is removed and paragraph (m) is added to read as follows:

§ 620.7 General prohibitions.

* * * * *

(m) Fish for American lobsters in, or possess or land American lobsters from, the Federal waters of Block Island Sound bounded as follows: From the point where LORAN line 14470 intersects with the 3-nautical mile (6-km) line south of Point Judith, RI, proceeding south-southeasterly to its intersection with the 43920 line, thence southwesterly along the 43920 line to its intersection with the 3-nautical mile (6-km) line northeast of Block Island, RI, thence northerly along said 3-nautical mile (6-km) line to the northern intersection of the 3-nautical mile (6-km) line and the 14530 line, thence northwesterly along the 14530 line to the intersection of the 3-nautical mile (6-km) line, thence northeasterly along the 3-nautical mile (6-km) line to the starting point.

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