

of the TED or be slit in a fore-and-aft direction to facilitate the exclusion of debris.

All of these recommendations represent legal configurations of TEDs for shrimpers fishing in inshore waters of Galveston Bay who are not subject to special requirements effective in the Gulf Shrimp Fishery-Sea Turtle Conservation Area. This action does not authorize any other departure from the TED requirements, including any illegal modifications to TEDs. In particular, if TEDs are installed in trawl nets, they may not be sewn shut.

Alternative to Required Use of TEDs

The authorization provided by this temporary rule applies to all shrimp trawlers that would otherwise be required to use TEDs in accordance with the requirements of 50 CFR 223.206(d)(2) who are operating in inshore waters of Galveston Bay, Texas, north of the Galveston jetties, east of the Galveston Island Interstate-45 Causeway, west of the "Shellfish Line" in East Bay (the line running from the entrance to Robinson Bayou to the tide gauge at Marsh Point), and, in Upper Galveston Bay, south of the overhead power lines crossing from near Evergreen Point to near Barbour's Cut, and, in Trinity Bay, south of a line running from the entrance of Double Bayou to Umbrella Point. "Inshore waters," as defined at 50 CFR 222.102, means the marine and tidal waters landward of the 72 COLREGS demarcation line (International Regulations for Preventing Collisions at Sea, 1972), as depicted or noted on nautical charts published by NOAA (Coast Charts, 1:80,000 scale) and as described in 33 CFR part 80. Instead of the required use of TEDs, shrimp trawlers may opt to comply with the sea turtle conservation regulations by using restricted tow times. A shrimp trawler utilizing this authorization must limit tow times to no more than 55 minutes, measured from the time trawl doors enter the water until they are retrieved from the water. This authorization is in effect until 11:59 p.m. local time on September 22, 2000.

Alternative to Required Use of TEDs; Termination

The AA, at any time, may modify the alternative conservation measures through publication in the **Federal Register**, if necessary to ensure adequate protection of endangered and threatened sea turtles. Under this procedure, the AA may modify the affected area or impose any necessary additional or more stringent measures, including more restrictive tow times or

synchronized tow times, if the AA determines that the alternative authorized by this temporary rule is not sufficiently protecting turtles, as evidenced by observed lethal takes of turtles aboard shrimp trawlers, elevated sea turtle strandings, or insufficient compliance with the authorized alternative. The AA may also terminate this authorization for these same reasons, or if compliance cannot be monitored effectively, or if conditions do not make trawling with TEDs impracticable. The AA may modify or terminate this authorization, as appropriate, at any time. A document will be published in the **Federal Register** announcing any additional sea turtle conservation measures or the termination of the tow time option in Galveston Bay. This authorization will expire automatically at 11:59 p.m. on September 22, 2000, unless it is explicitly extended through another notification published in the **Federal Register**.

Classification

This action has been determined to be not significant for purposes of Executive Order 12866.

The AA has determined that this action is necessary to respond to an emergency situation to allow more efficient fishing for shrimp, while providing adequate protection for endangered and threatened sea turtles pursuant to the ESA and other applicable law.

Pursuant to 5 U.S.C. 553(b)(B), the AA finds that there is good cause to waive prior notice and opportunity to comment on this temporary rule. It is impracticable and contrary to the public interest to provide prior notice and opportunity for comment. The AA finds that unusually high densities of bryozoans (*Zoobotryon verticillatum*) are creating special environmental conditions that may make trawling with TED-equipped nets impracticable. The AA has determined that the use of limited tow times for the described area and time would not result in a significant impact to sea turtles. Notice and comment are contrary to the public interest in this instance because providing notice and comment would prevent the agency from providing relief within the necessary time frame. The public was provided with notice and an opportunity to comment on 50 CFR 223.206(d)(3)(ii).

Pursuant to 5 U.S.C. 553(d)(1), because this temporary rule relieves a restriction, it is not subject to a 30-day delay in effective date. NMFS is making the rule effective August 23, 2000

through 11:59 p.m. local time on September 22, 2000.

Since prior notice and an opportunity for public comment are not required to be provided for this action by 5 U.S.C. 553, or by any other law, the analytical requirements of 5 U.S.C. 601 et seq. are inapplicable.

The AA prepared an Environmental Assessment (EA) for the final rule (57 FR 57348, December 4, 1992) requiring TED use in shrimp trawls and creating the regulatory framework for the issuance of notices such as this. Copies of the EA are available (see **ADDRESSES**).

Dated: August 23, 2000.

William T. Hogarth,

Deputy Assistant Administrator for Fisheries National Marine Fisheries Service.

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Billing Code: 3510-22-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 970930235-8028-02; I.D. 082300B]

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Closure

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

ACTION: Closure.

SUMMARY: NMFS closes the commercial fishery for king mackerel in the exclusive economic zone (EEZ) in the western zone of the Gulf of Mexico. This closure is necessary to protect the overfished Gulf king mackerel resource.

DATES: The closure is effective 12:01 a.m., local time, August 26, 2000, through June 30, 2001.

FOR FURTHER INFORMATION CONTACT: Mark Godcharles, 727-570-5305, fax 727-570-5583, e-mail Mark.Godcharles@noaa.gov.

SUPPLEMENTARY INFORMATION: The fishery for coastal migratory pelagic fish (king mackerel, Spanish mackerel, cero, cobia, little tunny, dolphin, and, in the Gulf of Mexico only, bluefish) is managed under the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (FMP). The FMP was prepared by the Gulf of Mexico and South Atlantic Fishery

Management Councils (Councils) and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act by regulations at 50 CFR part 622.

Based on the Councils' recommended annual total allowable catch and the allocation ratios in the FMP, NMFS implemented an annual commercial quota for the Gulf of Mexico migratory group of king mackerel in the western zone of 1.05 million lb (0.48 million kg) (63 FR 8353, February 19, 1998).

Under 50 CFR 622.43(a), NMFS is required to close any segment of the king mackerel commercial fishery when its quota has been reached, or is projected to be reached, by filing a notification at the Office of Federal Register. NMFS has determined that the commercial quota of 1.05 million lb (0.48 million kg) for Gulf group king mackerel in the western zone will be reached on August 25, 2000. Accordingly, the commercial fishery for Gulf group king mackerel in the western zone is closed at 12:01 a.m., local time, August 26, 2000, through June 30, 2001, the end of the fishing year. The boundary between the eastern and western zones is 87°31'06" W. long.,

which is a line directly south from the Alabama/Florida boundary.

Until July 1, 2001, no person aboard a vessel for which a commercial permit for king mackerel has been issued, other than a vessel operating as a charter vessel or headboat, may fish for or retain king mackerel in or from the western zone in the EEZ. A vessel for which a charter vessel/headboat permit and a commercial king mackerel permit have been issued is operating as a charter vessel or headboat when it carries a paying passenger or when more than three persons are aboard, including captain and crew. A person, other than captain or crew, aboard a vessel operating as a charter vessel or headboat may fish for or retain king mackerel in or from the western zone under the bag and possession limits of 50 CFR 622.39(c)(1)(ii).

During the closure, king mackerel taken from the western zone in the EEZ, including those harvested under the bag and possession limits, may not be purchased or sold. This prohibition does not apply to trade in king mackerel from the western zone that were harvested, landed ashore, and sold prior to the closure and were held in cold storage by a dealer or processor.

Classification

This action responds to the best available information recently obtained from the fishery. The closure must be implemented immediately to prevent an overrun of the commercial quota (50 CFR 622.42(c)(1)) of Gulf group king mackerel, given the capacity of the fishing fleet to harvest the quota quickly. Overruns could potentially lead to further overfishing and unnecessary delays in rebuilding this overfished resource. Any delay in implementing this action would be impractical and contrary to the Magnuson-Stevens Act, the FMP, and the public interest. NMFS finds for good cause that the implementation of this action cannot be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is waived.

This action is taken under 50 CFR 622.43(a) and is exempt from review under Executive Order 12866.

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

Dated: August 24, 2000.

Bruce C. Morehead,
Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.
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