

marking requirements implementing the Atlantic Large Whale Take Reduction Plan (ALWTRP). These requirements were suspended until November 1, 2000. It was the agency's intent to extend that suspension indefinitely until a modified gear marking program is implemented. Because of a delay in preparing an extension of the suspension, these gear marking requirements inadvertently went into effect. The intent of this action is to remove the existing requirements.

DATES: Effective November 21, 2000.

FOR FURTHER INFORMATION CONTACT: Douglas Beach, NMFS, Northeast Region, 978-281-9254; or Patricia Lawson, NMFS, Office of Protected Resources, 301-713-2322.

SUPPLEMENTARY INFORMATION:

Background

On February 16, 1999, NMFS published a final rule (64 FR 7529) implementing the ALWTRP. Among other measures, the final rule required gear marking in all fisheries covered by the ALWTRP by April 1, 1999.

The Atlantic Large Whale Take Reduction Team (ALWTRT) met on February 8-10, 1999, discussed the gear marking program in detail, found that the plan would not meet ALWTRT and NMFS goals and recommended by consensus that NMFS suspend the implementation of the gear marking requirement until November 1, 1999, or until a better system was designed. On April 9, 1999 (64 FR 17292), NMFS issued a final rule that suspended the gear marking program until November 1, 1999. On December 30, 1999 (64 FR 73434), NMFS extended the suspension until November 1, 2000. Because of a delay in preparing an extension of this suspension, these gear marking requirements went into effect. It was not the intent of the agency for this to happen. A new gear marking program will be implemented by an interim final rule currently in preparation. In order to spare fishermen the expense of having to adhere for a short period of time to gear marking requirements that will be modified in the near future, NMFS is removing and reserving these requirements. The other provisions of this final rule implementing the ALWTRP, including the gear marking requirements for the Southeast U.S. fisheries covered by the ALWTRP, remain in effect.

Classification

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

NMFS prepared a Supplemental Environmental Assessment (EA) for the final rule (64 FR 73434) extending the suspension of the effective dates of the gear marking requirements and found that action not to have a significant environmental impact. Since this final rule addresses an action previously analyzed in an EA, it is categorically excluded from further environmental review under section 5.05b of NOAA Administrative Order 216-6.

A biological opinion (BO) on the ALWTRP was completed on July 15, 1997. That BO concluded that implementation of the ALWTRP and continued operation of fisheries conducted under the American Lobster and Northeast Multispecies Fishery Management Plans (FMPs), and southeastern shark gillnet component of the Shark FMP, may adversely affect, but were not likely to jeopardize the continued existence of, any listed species of large whale or sea turtle under NMFS jurisdiction. NMFS conducted an informal consultation and made the determination that the April 9, 1999, final rule (64 FR 17292), did not change the basis for that BO. Therefore, NMFS also found this action does not change the basis for that BO.

Removing the ALWTRP gear marking requirement for northeast U.S. fisheries will have no adverse impacts on marine mammals. (EA, 1999) In addition, this final rule does not affect the determination that the ALWTRP will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal management programs of the Atlantic states.

The Assistant Administrator for Fisheries NOAA, (AA), for good cause, finds, under 5 U.S.C. 553(b)(B), that delaying this final rule to allow for prior notice and an opportunity for public comment would be contrary to the public interest. It would not be fair to subject fishermen to the expense of having to comply with gear marking requirements that do not meet the goals of the ALWTRP in which the agency intends to replace in the immediate near future with a new gear marking program. For the same reason, the AA finds, for good cause under 5 U.S.C. 553(d)(3) that delaying the effectiveness of this final rule for 30 days would be contrary to the public interest. Furthermore, since this final rule relieves a restriction, under 5 U.S.C. 553(d)(1) it is not subject to a 30-day delay in effective date.

Because publishing a general notice of proposed rulemaking is not required for this action by 5 U.S.C. 553 or by any other law, the analytical requirements of

the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are inapplicable.

This final rule removes a collection-of-information requirement previously approved by OMB (OMB control number: 0648-0364).

List of Subjects in 50 CFR Part 229

Administrative practice and procedure, Confidential business information, Fisheries, Marine Mammals, Reporting and record-keeping requirements.

Dated: November 16, 2000.

W.T. Hogarth,

Deputy Assistant Administrator, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR Part 229 is amended as follows:

PART 229—AUTHORIZATION FOR COMMERCIAL FISHERIES UNDER THE MARINE MAMMAL PROTECTION ACT OF 1972

1. The authority citation for part 229 continues to read as follows:

Authority: 16 U.S.C. 1361 *et seq.*

§ 229.32 [Amended]

2. In § 229.32, paragraphs (b), (c)(3)(ii), (c)(4)(ii), (c)(5)(ii), (d)(2)(ii), (d)(3)(ii), (d)(4)(ii), and (d)(5)(ii) are removed and reserved.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 991008273-0070-02; I.D. 111600A]

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 northern Florida west coast subzone. This closure is necessary to protect the overfished Gulf king mackerel resource.

DATES: The closure is effective 12:01 a.m., local time, November 19, 2000, through June 30, 2001.

FOR FURTHER INFORMATION CONTACT:

Mark Godcharles, telephone 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 (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

Based on the Councils' recommended total allowable catch and the allocation ratios in the FMP on February 19, 1998 (63 FR 8353), NMFS implemented a commercial quota of 2.34 million lb (1.06 million kg) for the eastern zone (Florida) of the Gulf migratory group of king mackerel. On April 27, 2000, NMFS' implemented final rule (65 FR 16336, March 28, 2000) divided the Florida west coast subzone of the eastern zone into northern and southern subzones and established a separate quota for the northern Florida west coast subzone of 175,500 lb (79,606 kg)(50 CFR 622.42(c)(1)(i)(A)(2)(ii)).

Under 50 CFR 622.43(a)(3), 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 the Federal Register. NMFS has determined that the commercial quota of 175,500 lb (79,606 kg) for Gulf group king mackerel in the northern Florida west coast subzone was reached on November 15, 2000. Accordingly, the commercial fishery for

king mackerel in the northern Florida west coast subzone is closed at 12:01 a.m., local time, November 19, 2000, through June 30, 2001, the end of the fishing year.

The Florida west coast subzone is that part of the eastern zone south and west of 25°20.4' N. lat. (a line directly east from the Miami-Dade County, FL, boundary). The Florida west coast subzone is further divided into northern and southern subzones. The northern subzone is that part of the Florida west coast subzone that is between 26°19.8' N. lat. (a line directly west from the Lee/Collier County, FL, boundary) and 87°31'06' W. long. (a line directly south from the Alabama/Florida boundary).

NMFS previously determined that the commercial quota for king mackerel from the western zone of the Gulf of Mexico was reached and closed that segment of the fishery on August 26, 2000 (65 FR 52350, August 29, 2000). Thus, with this closure, all commercial fisheries for Gulf group king mackerel in the EEZ are closed from the U.S./Mexico border through the northern Florida west coast subzone through June 30, 2001.

Except for a person aboard a charter vessel or headboat, during the closure, no person aboard a vessel for which a commercial permit for king mackerel has been issued may fish for Gulf group king mackerel in the EEZ in the closed zones or subzones. A person aboard a vessel that has a valid charter vessel/headboat permit for coastal migratory pelagic fish may continue to retain king mackerel in or from the closed zones or subzones under the bag and possession limits set forth in 50 CFR 622.39(c)(1)(ii) and (c)(2), provided the vessel is operating as a charter vessel or headboat. Note, however, that the bag limit for an operator or crew member of a charter vessel or headboat is zero. A charter vessel or headboat that also has a commercial king mackerel permit is

considered to be operating as a charter vessel or headboat when it carries a passenger who pays a fee or when there are more than three persons aboard, including operator and crew.

During the closure, king mackerel from the closed zones or subzones taken 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 closed zones or subzones 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 contradictory 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: November 17, 2000.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.
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