

notification with the required cost estimate for such facility.

(i) *Allocation of available funds.* If the funds available to MARAD are insufficient to accommodate every M&R project required to be performed in U.S. shipyards, MARAD will select those work projects suitable for accomplishment in United States shipyards, for which MARAD will reimburse the differential costs of the M&R. MARAD will base such determinations on the amount of funds available, the projected cost of each repair, the number of vessels operated by the vessel operator and the proximity of the vessels' itineraries to suitable U.S. shipyard locations.

(j) *Reimbursement.*—

(1) **IN GENERAL.**—The Administrator will, subject to the availability of appropriations, reimburse a Contractor for costs incurred by the Contractor for qualified M&R performed in the United States under this section.

(2) **AMOUNT.**—The amount of reimbursement will be equal to the difference between—

(i) The fair and reasonable cost of obtaining the qualified M&R in the United States; and

(ii) The fair and reasonable cost of obtaining the qualified M&R outside the United States, in the country in which the Contractor would otherwise undertake the qualified M&R.

(3) **DETERMINATION OF FAIR AND REASONABLE COSTS.**—

(i) The Administrator will determine fair and reasonable costs for purposes of paragraph (j)(2) of this section after considering the supporting documentation submitted by the Contractor. If it is too difficult to accurately ascertain the foreign costs of anticipated M&R, the Maritime Administrator may decide to compute the foreign cost of M&R by reference to a percentage of the domestic cost of the M&R, based on available general information.

(ii) MARAD will also pay for other costs borne by the M&R participant reasonably associated with the qualified M&R performed in a U.S. shipyard that would not be incurred if the vessel was repaired in a foreign shipyard. Such costs include:

(A) Any additional vessel maintenance and repair preparation costs, including costs for additional engineering, design and contract bid proposal costs;

(B) Costs (including capital and operating costs) for "lost time" for transit to a U.S. shipyard in excess of the transit period to a foreign shipyard on the same trade route to which the vessel is assigned and for the time spent

in a U.S. shipyard which exceeds the estimated time required by a foreign shipyard for the same work.

(C) Costs for additional labor, supervision, overhead and other work involving shore-side personnel.

(iii) Upon approval of each specific M&R project, the Administrator will establish with the Contractor a set level of funding to be provided by MARAD. If, during the course of performing M&R in a U.S. shipyard, it is discovered that the repairs will entail additional unanticipated costs, the Administrator shall provide MARAD's share of funding corresponding to the percentage of the domestic M&R costs originally agreed to by MARAD, but not in excess of 20 percent of the original funding level agreed to by MARAD. Cost overruns will be the obligation of the M&R participant unless MARAD determines that it is fair to reimburse the M&R participant and sufficient funds are available to do so.

(iv) Payment of MARAD's share of the shipyard contract price may be made as work progresses or upon completion of the M&R and finalization of costs, as MARAD may determine. Vouchers for payment may be submitted to the Associate Administrator for Marine Asset Development. Payments shall be paid and processed under the terms and conditions of the Prompt Payment Act, 31 U.S.C. 3901. However, pursuant to 31 U.S.C. 3902(f), interest on late payments will be paid only if appropriated funds for paying reimbursement under the M&R Pilot Program are available.

Dated: February 1, 2007.

By Order of the Maritime Administrator.

**Daron T. Threet,**

*Secretary, Maritime Administration.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 622

[Docket No. 001005281-0369-02; I.D. 013107B]

#### Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Trip Limit Reduction

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

**ACTION:** Temporary rule; inseason trip limit reduction.

**SUMMARY:** NMFS reduces the commercial trip limit of Atlantic group Spanish mackerel in or from the exclusive economic zone (EEZ) in the southern zone to 1,500 lb (680 kg) per day. This trip limit reduction is necessary to maximize the socioeconomic benefits of the quota.

**DATES:** Effective 6 a.m., local time, February 5, 2007, through February 28, 2007, unless changed by further notification in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Steve Branstetter, telephone: 727-824-5305, fax: 727-570-5308, e-mail: *Steve.Branstetter@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 total allowable catch and the allocation ratios in the FMP (65 FR 41015, July 3, 2000) NMFS implemented a commercial quota of 3.87 million lb (1.76 million kg) for the Atlantic migratory group of Spanish mackerel. Atlantic migratory group Spanish mackerel are divided into a northern and southern zone for management purposes. The southern zone for Atlantic migratory group Spanish mackerel extends from 30°42'45.6" N. lat., which is a line directly east from the Georgia/Florida boundary, to 25°20.4' N. lat., which is a line directly east from the Miami-Dade/Monroe County, Florida, boundary.

For the southern zone, seasonally variable trip limits are based off an adjusted quota of 3.62 million lb (1.64 million kg). The adjusted quota is calculated to allow continued harvest in the southern zone at a set rate for the remainder of the fishing year in accordance with 50 CFR 622.44(b)(2). Beginning December 1, trip limits are unlimited on weekdays and 1,500 lb (680 kg) per day on weekends. When 75 percent of the adjusted quota of Atlantic group Spanish mackerel is taken until 100 percent of the adjusted quota is taken, Spanish mackerel in or from the EEZ in the southern zone may not be

possessed on board or landed from a permitted vessel in amounts exceeding 1,500 lb (680 kg) per day.

NMFS has determined that 75 percent of the adjusted quota for Atlantic group Spanish mackerel has been taken.

Accordingly, the 1,500-lb (680-kg) per day commercial trip limit applies to Spanish mackerel in or from the EEZ in the southern zone effective 6 a.m., local time, February 5, 2007, through February 28, 2007, unless changed by further notification in the **Federal Register**.

#### Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(3)(B), as such prior notice and opportunity for public comment is unnecessary and contrary to the public interest. Such procedures would be unnecessary because the rule itself already has been subject to notice and comment, and all that remains is to notify the public of the trip limit reduction. Allowing prior notice and opportunity for public comment is contrary to the public interest because of the need to immediately implement this action in order to protect the fishery since the capacity of the fishing fleet allows for rapid harvest of the quota. Prior notice and opportunity for public comment will require time and would potentially result in a harvest well in excess of the established quota.

For the aforementioned reasons, the AA also finds good cause to waive the 30 day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

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: January 31, 2007.

**James P. Burgess,**

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

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 060216044-6044-01; I.D. 013107A]

#### Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 630 of the Gulf of Alaska

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

**ACTION:** Temporary rule; modification of a closure.

**SUMMARY:** NMFS is reopening directed fishing for pollock in Statistical Area 630 of the Gulf of Alaska (GOA) for 48 hours. This action is necessary to fully use the A season allowance of the 2007 total allowable catch (TAC) of pollock specified for Statistical Area 630 of the GOA.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), February 6, 2007, through 1200 hrs, A.l.t., February 8, 2007.

Comments must be received at the following address no later than 4:30 p.m., A.l.t., February 16, 2007.

**ADDRESSES:** Send comments to Sue Salvesson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, Attn: Ellen Sebastian. Comments may be submitted by:

- Mail to: P.O. Box 21668, Juneau, AK 99802;
- Hand delivery to the Federal Building, 709 West 9th Street, Room 420A, Juneau, Alaska;
- FAX to 907-586-7557;
- E-mail to [630pollock@noaa.gov](mailto:630pollock@noaa.gov) and include in the subject line of the e-mail comment the document identifier: g63plkro1.fo.wpd (E-mail comments, with or without attachments, are limited to 5 megabytes); or
- Webform at the Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions at that site for submitting comments.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Hogan, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and

Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

NMFS closed the directed fishery for pollock in Statistical Area 630 of the GOA under § 679.20(d)(1)(iii) on January 22, 2007 (72 FR 2793, January 23, 2007).

NMFS has determined that approximately 3,134 mt of pollock remain in the directed fishing allowance in Statistical Area 630 of the GOA. Therefore, in accordance with § 679.25(a)(1)(i), (a)(2)(i)(C) and (a)(2)(iii)(D), and to fully utilize the A season allowance of the 2007 TAC of pollock in Statistical Area 630, NMFS is terminating the previous closure and is reopening directed fishing for pollock in Statistical Area 630 of the GOA. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance will be reached after 48 hours. Consequently, NMFS is prohibiting directed fishing for pollock in Statistical Area 630 of the GOA for 48 hours, effective 1200 hrs, A.l.t., February 6, 2007.

#### Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) and 679.25(c)(1)(ii) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the opening of pollock in Statistical Area 630 of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of January 30, 2007.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

Without this inseason adjustment, NMFS could not allow the fishery for pollock in Statistical Area 630 of the GOA to be harvested in an expedient manner and in accordance with the regulatory schedule. Under § 679.25(c)(2), interested persons are invited to submit written comments on