references, removes confusing references for travel, and removes inconsistent language for authorizations for OLMs.

VII. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) does not apply to this rule, because an opportunity for public comment is not required to be given for this rule under 41 U.S.C. 1707(a)(1) (see Section VI. of this preamble). Accordingly, no regulatory flexibility analysis is required and none has been prepared.

VIII. Paperwork Reduction Act

The final rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Parts 538 and 552

Government procurement.

Jeffrey A. Koses,

Senior Procurement Executive, Office of Acquisition Policy, Office of Government-wide Policy, General Services Administration.

Therefore, GSA amends 48 CFR parts 538 and 552 as set forth below:

■ 1. The authority citation for 48 CFR parts 538 and 552 continues to read as follows:

Authority: 40 U.S.C. 121(c).

PART 538—FEDERAL SUPPLY SCHEDULE CONTRACTING

538.7201 [Removed and Reserved]

■ 2. Remove and reserve section 538.7201.

PART 552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 3. Amend section 552.238–115 by—

■ a. Revising the date of the clause;

■ b. In paragraph (a), in the definition of ''Order-level materials'' by removing the words ''*materials* means'' and adding ''*materials,* as used in this clause'' and in the third sentence removing the phrase ''this section'' and adding the phrase ''this clause'' in its place;

■ c. Revising paragraph (d)(2);

■ d. Removing from paragraph (d)(4) the phrase ''FSS contract'', and adding the phrase ''FSS Contract,'' in its place.

■ e. Removing from paragraph (d)(6) the phrase ''follow procedures'' and adding the phrase ''follow the procedures'' in its place;

■ f. Removing from paragraph (d)(7)(i) introductory text the word ''contractor'' and adding the word ''Contractor'' in its place;

■ g. Removing from paragraph (d)(7)(i)(A) the phrase ''contractor under FAR 52.212–4 Alt I (i)(1)(ii)(A)'' and adding the phrase ''Contractor under paragraph (i)(1)(ii)(A) of FAR clause 52.212–4 Alternate I'' in its place;

■ h. Removing from paragraph (d)(7)(i)(B) the word ''contractor'' and adding the word ''Contractor'' in its place wherever it appears, and removing the word ''its'';

■ i. Revising paragraph (d)(7)(i)(C);

■ j. Removing from paragraph (d)(7)(iii) the phrase ''FAR 52.212–4(i)(1)(ii)(D)(2) Alternate I'' and adding the phrase ''paragraph (i)(1)(ii)(D)(2) of FAR clause 52.212–4 Alternate I'' in its place;

■ k. Removing from paragraph (d)(9) the phrases ''by GSA'' and ''compliance with the IFF'' and adding the phrases ''by GSA (Federal Supply Schedules)'' and ''compliance with the Industrial Funding Fee (IFF)'' in their places respectively;

■ l. Removing from paragraph (d)(10) introductory text the phrase ''OLMs'' and adding the phrase ''Order-level materials'' in its place;

■ m. Removing from paragraph (d)(10)(ii) the phrase ''FSS Schedule Pricelists'' and adding ''Federal Supply Schedule (FSS) Price Lists'' in its place; and

■ n. Removing paragraph (d)(11).

The revisions read as follows:

552.238–115 Special Ordering Procedures for the Acquisition of Order-Level Materials

* * * * *

Special Ordering Procedures for the Acquisition of Order-Level Materials (Apr 2022)

* * * * *

(d) * * *

(2) Order-level materials are included in the definition of the term ''material'' in FAR clause 52.212–4 Alternate I, and, therefore, all provisions of FAR clause 52.212–4 Alternate I that apply to ''materials'' also apply to order-level materials.

* * * * *

(7) * * *

(i) * * *

(C) A Contractor with an approved purchasing system, per FAR subpart 44.3, shall instead follow its purchasing system requirement and is exempt from the requirements in paragraphs (d)(7)(i)(A) and (B) of this clause.

* * * * *

[FR Doc. 2022–04287 Filed 3–1–22; 8:45 am]

BILLING CODE 6820–61–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 229

[Docket No. 220223–0053]

RIN 0648–BL26

Taking of Marine Mammals Incidental to Commercial Fishing Operations; Atlantic Large Whale Take Reduction Plan Regulations

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

ACTION: Temporary rule; emergency final rule.

SUMMARY: NMFS is implementing a temporary emergency rule to prohibit trap/pot fishery buoy lines between Federal and State waters within the Massachusetts Restricted Area during the month of April 2022 to reduce the incidental mortality and serious injury to North Atlantic right whales (*Eubalaena glacialis*) in commercial lobster and Jonah crab trap/pot fisheries. This emergency rule is necessary to reduce the risk of right whale mortality and serious injury in buoy lines in an area with a high co-occurrence of whales and buoy lines.

DATES: Effective April 1, 2022, through April 30, 2022.

ADDRESSES: Copies of the documents associated with this emergency rule are available at *https://www.fisheries.noaa.gov/alwtrp* or by emailing Marisa Trego at *marisa.trego@noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Marisa Trego, 978–282–8484, *marisa.trego@noaa.gov,* Colleen Coogan, 978 281–9181, *colleen.coogan@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The North Atlantic right whale (*Eubalaena glacialis,* hereafter referred to as right whale) population has been in decline since 2010, with the most recent published estimate of right whale population size in 2019 at 368 whales (±11) with a strong male bias (Pace et al. 2017, Pace 2021). Preliminary 2020 and 2021 data suggest the decline has continued and that fewer than 350 individuals remain (Pettis et al. 2022). Though this population estimate is not final and still undergoing final peer review, it relies upon the same peer-reviewed population models used in

Pace et al. (2017) and Pace (2021) and is not expected to change significantly in the final publication. The steep population decline is a result of high levels of human-caused mortality caused by entanglement in fishing gear and vessel strikes in both the U.S. and Canada. An Unusual Mortality Event, as defined in section 410 of the Marine Mammal Protection Act (MMPA), was declared for the population in 2017 as a result of high rates of entanglement in fishing gear and vessel strikes. As of January 2022, the Event includes 34 detected mortalities (17 in 2017, 3 in 2018, 10 in 2019, 2 in 2020, and 2 in 2021). In 2020, 16 serious injuries were documented (2 in 2017, 5 in 2018, 1 in 2019, 4 in 2020, and 4 in 2021; see: *https://www.fisheries.noaa.gov/national/marine-life-distress/2017-2021-north-atlantic-right-whale-unusual-mortality-event*). Mortality is higher than what has been observed, according to population models that estimate that 64 percent of all mortalities are not observed and accounted for in the right whale observed incident data (Pace 2021, Pace et al. 2021).

The North Atlantic right whale is listed as an endangered species under the Endangered Species Act, and considered a strategic stock under the Marine Mammal Protection Act (MMPA). NMFS is required by the MMPA to reduce the risk of serious injury and death caused by entanglement in commercial fishing gear to a rate below the potential biological removal level (PBR), prescribed as the maximum number of animals that can be removed annually while allowing a marine mammal stock to reach or maintain its optimal sustainable population level. PBR for the North Atlantic right whale population was 0.7 whales per year in the most recently published draft stock assessment report (NMFS 2021a). Between 2010 and 2021, there has only been one year where observed mortality and serious injury of right whales fell below the PBR at the time, which was an individual with a partial serious injury given a prorated quantity of 0.75. With the total estimated mortality well above PBR, additional measures are urgently needed to reduce the impact of U. S. Atlantic fisheries on right whales.

The Atlantic Large Whale Take Reduction Plan (Plan) was originally developed pursuant to section 118 of the MMPA (16 U.S.C. 1387) to reduce mortality and serious injury of three stocks of large whales (fin, humpback, and North Atlantic right) incidental to Category I and II fisheries. Under the MMPA, a strategic stock of marine mammals is defined as a stock: (1) For which the level of direct human-caused mortality exceeds the Potential Biological Removal (PBR) level; (2) which, based on the best available scientific information, is declining and is likely to be listed as a threatened species under the Endangered Species Act (ESA) of 1973 within the foreseeable future; or (3) which is listed as a threatened or endangered species under the ESA or is designated as depleted under the MMPA (16 U.S.C. 1362(19)). When incidental mortality or serious injury of marine mammals from commercial fishing exceeds a stock's PBR level, the MMPA directs NMFS to convene a take reduction team made up of stakeholders, including: representatives of Federal agencies; each coastal state which has fisheries which interact with the species or stock; appropriate Regional Fishery Management Councils; interstate fisheries commissions, academic and scientific organizations; environmental groups; all commercial and recreational fisheries groups and gear types which incidentally take the species or stock; and, if relevant, Alaska Native organizations or Indian tribal organizations.[1]

The Atlantic Large Whale Take Reduction Team (ALWTRT) was established in 1996 and has 60 members, including about 22 trap/pot and gillnet fishermen or fishery representatives. The background for the take reduction planning process and initial development of the Plan is provided in the preambles to the proposed (62 FR 16519, April 7, 1997), interim final (62 FR 39157, July 22, 1997), and final (64 FR 7529, February 16, 1999) rules implementing the initial plan. The Team met and recommended modifications to the Plan, implemented by NMFS through rulemaking, several times since 1997 in an ongoing effort to meet the MMPA take reduction goals.

Mortalities and serious injuries of right whales in U.S. fishing gear and first seen in U.S. waters at levels above PBR have continued. NMFS informed the Team in late 2017 that it was necessary to reconvene to develop recommendations to reduce the impacts of U.S. commercial fisheries on large whales with a focus on reducing risk to the declining North Atlantic right whale population. During a Team meeting in April 2019, the Team recommended a framework of measures to modify lobster and Jonah crab trap/pot trawls within the Northeast Region Trap/Pot Management Area (Northeast Region). The recommended measures intended to reduce risk of mortality and serious injury to right whales incidentally entangled in buoy lines in those fisheries by at least 60 percent, which was the best estimate at the time of the minimum amount of risk necessary to get annual severe entanglement rates below PBR based on observed entanglement incidents. NMFS published a Final Environmental Impact Statement (FEIS) on July 2, 2021 (86 FR 35288), with a 30-day comment period. The Record of Decision was signed on August 30, 2021, and the final rule was published on September 17, 2021 (86 FR 51970). The new rule was estimated to meet the minimum 60-percent reduction in risk recommended by the Team in 2019. Greater detail on right whale population estimates, the stock's decline, changes in distribution and reproductive rates, and entanglement-related mortalities and serious injuries documented in recent years can be found in Chapters 2 and 4 of the FEIS (NMFS 2021b) and the preamble to the 2021 final rule (86 FR 51970).

Justification for Emergency Action

New population information published since the 2019 Team meeting and recent 2021 final rule suggest that a greater amount of risk reduction is needed to reduce mortality and serious injury of right whales in U.S. commercial fisheries below PBR, as required by the MMPA. NMFS presented the new minimum risk reduction needed to the team in a webinar on November 2, 2021, estimating an increase from the minimum of 60-percent risk reduction estimated in Phase 1 based on observed incidents, to at least a 90-percent total risk reduction based on estimated mortality. Phase 1 is intended to achieve an estimated 60-percent reduction in entanglement risk from Northeast lobster and Jonah crab trap pot fisheries, which make up approximately 93 percent of fixed gear buoy lines in the right whale range within U.S. waters. A rulemaking process for Phase 2 modifications to the Plan began on August 11, 2021, with a Notice of Intent to prepare an Environmental Impact Statement that aims to further reduce risk in all fisheries covered under the plan coastwide. However, a single mortality or serious injury of a North Atlantic right whale in a U.S. fishery would exceed PBR. Therefore, observations in 2021 and new information submitted to NMFS merit emergency measures in an area of anticipated acute risk of entanglement

[1] There are no Alaska Native or Indian tribal organizations participating in fisheries managed under the Atlantic Large Whale Take Reduction Team.

to the population while long-term measures are being developed.

One measure included in the 2021 final rule (86 FR 51970, September 17, 2021) has left a critical gap in protection where right whale distribution information identifies a high risk of overlap between right whales and buoy lines. Right whale monthly distribution data identifies risk in unrestricted waters encapsulated on three sides by the expanded Massachusetts Restricted Area (MRA) during the month of April. The 2021 expansion of the geographic extent of the MRA to include Massachusetts State waters north to the New Hampshire border (MRA Expansion, Figure 1) mirrors the Massachusetts 2021 modification of the State water closure (322 CMR 12.04(2)). With the implementation of the MRA Expansion, approximately 200 square miles (518 square kilometers) of Federal waters remain open to trap/pot fishing between State and Federal closures creating a wedge where 2021 data indicate that trap/pot gear is concentrated during the closure period (MRA Wedge, Figure 2). During aerial surveys in April 2021, the Center for Coastal Studies (CCS) observed right whales within this wedge alongside the presence of aggregated fishing gear (Figure 2). The gear in this area is thought to be a mix of actively fished gear and staged gear that is placed in preparation for Federal waters within the MRA to open in May. In addition, during April, fishermen anticipating the May 1 opening of Federal waters of the MRA may start bringing gear offshore to prepare to move into the MRA. This, in addition to the gear from fishermen already actively fishing outside of the buoy line closure area, increases gear density in the area. Finally, weak insertion requirements that reduce risk of serious entanglements included in the 2021 final rule will not yet be required in Federal waters until May 1, 2022. Given the dense concentration of high-strength vertical lines in an area with persistent right whale presence, this wedge area presents an imminent entanglement threat.

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Figure 1: The Massachusetts Restricted Area expansion (hatched area) of the original closure area (solid gray) was closed by Massachusetts State in Spring of 2021 and mirrored in the Atlantic Large Whale Take Reduction Plan in Fall of 2021.

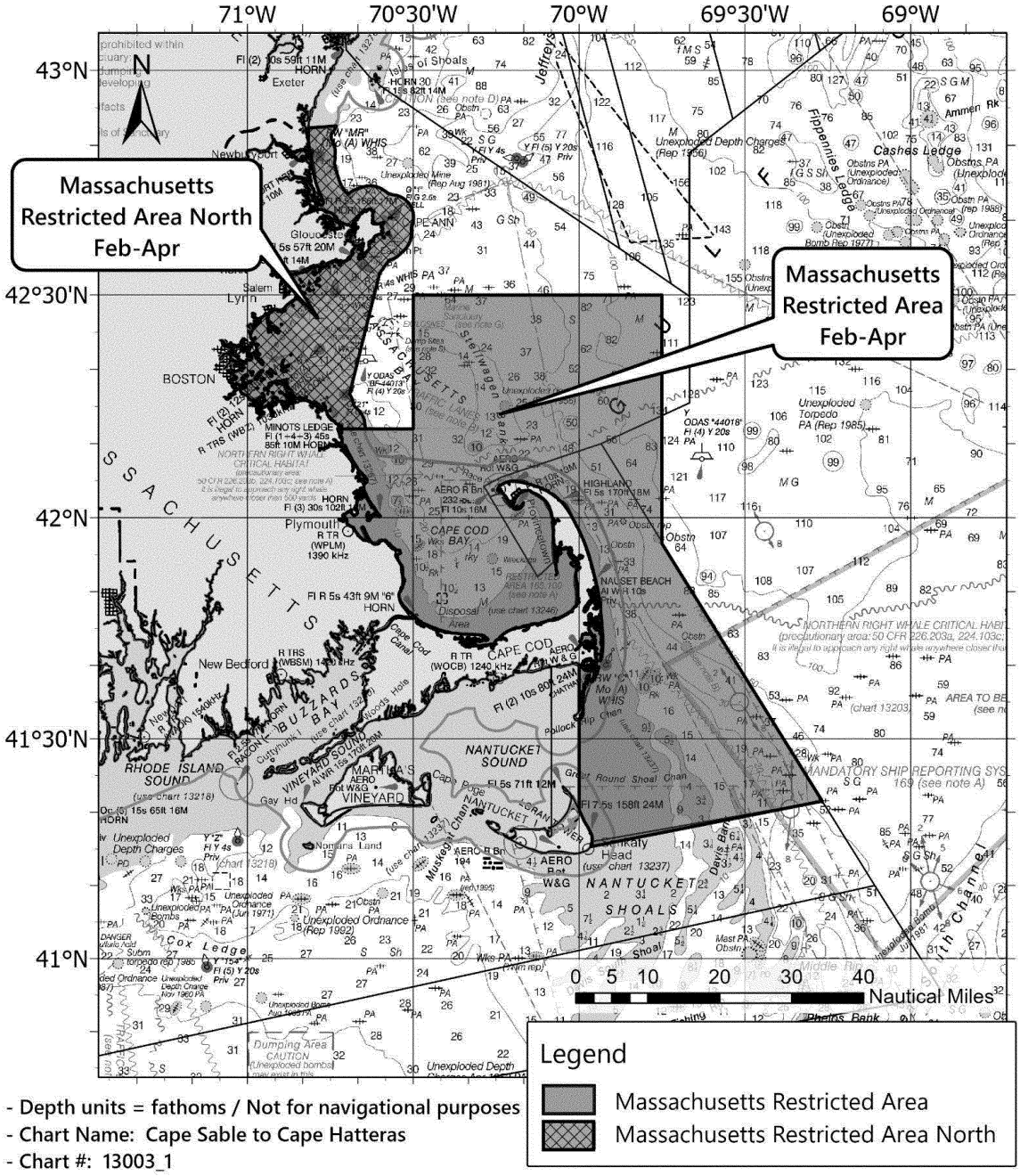
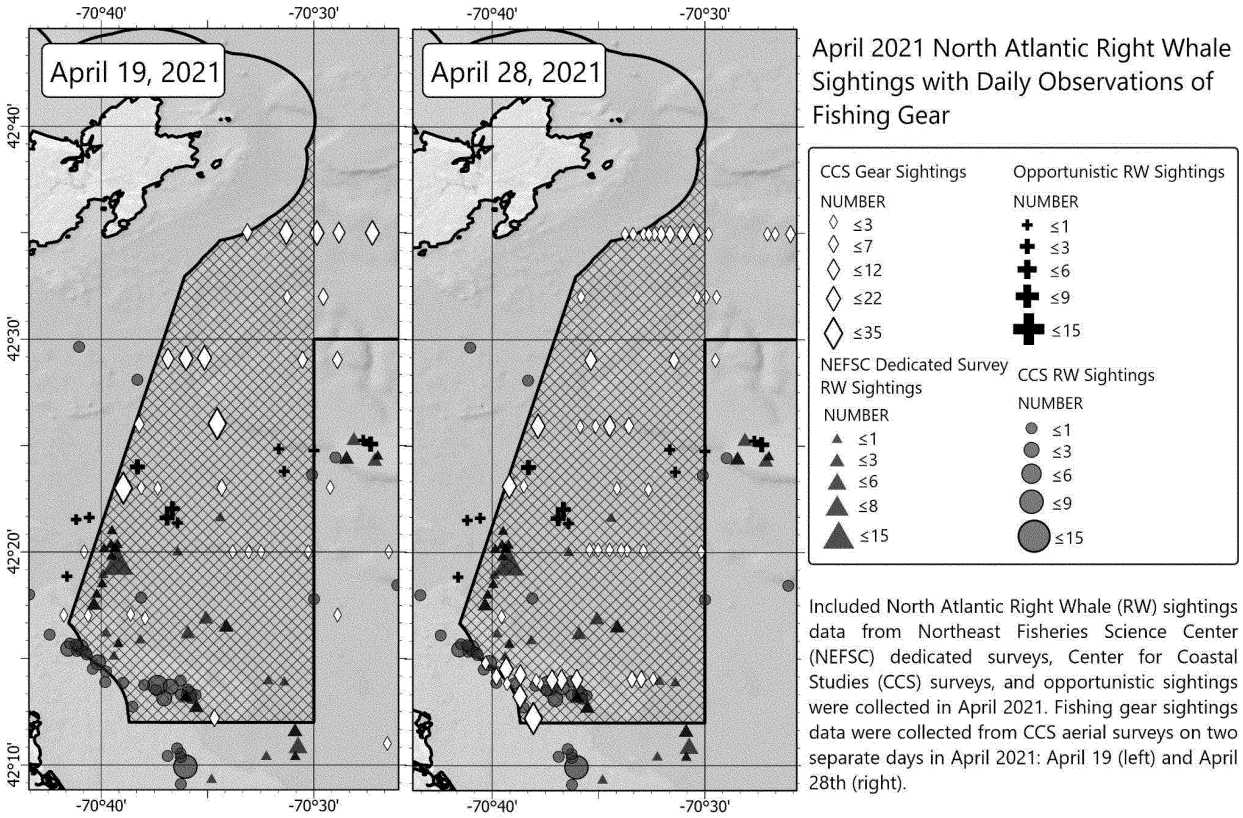


Figure 2: The area closed by this emergency rule is the hatched area. Sightings of whales during April 2021 (gray and black shapes) and gear observed on two different days are overlaid. Right whale sightings from the Center for Coastal Studies aerial surveys are represented by gray circles, gray triangles show Northeast Fishery Science Center (NEFSC) dedicated aerial and shipboard surveys, and black crosses are opportunistic sightings collected by NEFSC. Fishing gear (white diamonds) observed by the Center for Coastal Studies on April 19, 2021, and April 28, 2021, were selected as representative snapshots of fishing gear present in survey areas. Surveys concentrate on Cape Cod Bay; surveyors rarely fly north of mid Cape Ann, offshore Rockport, MA. These maps are used for qualitative not quantitative comparison, and differ from Decision Support Tool data.



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Emergency Measures

This emergency rule implements a fishery closure in the waters nearly circumscribed by Federal and State waters of the MRA, where the use of persistent trap/pot buoy lines is prohibited in April 2022 (Figure 2). This closure period is only a portion of the existing MRA closure season as implemented in the 2021 final rule (86 FR 51970, September 17, 2021), which is closed as of February 1 and continues through April 30 in Federal waters, and in Massachusetts State waters February 1 through May 15 with an option to open earlier or close later, depending on right whale occurrence under State regulations (322 CMR 12.04(2)). Risk reduction and change in right whale co-occurrence were calculated for this emergency measure using the same version of the Decision Support Tool (V 3.1.0) that was used in the 2021 FEIS (NMFS 2021b). The area restricted by this emergency rule includes approximately 200 square miles (518 square kilometers and represents about 2.2 percent of the pre-final rule risk of Northeast lobster and Jonah crab trap/pot fisheries. Closure of this area to buoy lines in April would result in 2- to 2.2-percent risk reduction, and 1.3- to 1.5-percent reduction in co-occurrence with right whales, depending on whether gear is relocated or removed, respectively. When combined with the 2021 final rule (86 FR 51970, September 17, 2021), this one-month closure adds at least an additional 1.6-percent risk reduction due to the interactive effects of an added closure during April with other measures that weaken, reduce, or relocate buoy lines. Though this additional reduction seems small, it offers measurable reduction in a relatively small area for a very short time period.

The Decision Support Tool used to estimate risk reduction of these

measures relies on whale distribution data through 2018 and line estimates from recent years before the new seasonal restricted area was implemented. These data likely underestimate the risk reduction given 2020 and 2021 observations of right whale distribution and the 2021 restrictions may have pushed more gear into this area. Furthermore, the right whale habitat density model produced by Duke University and used within the Decision Support Tool estimates that approximately 4.6 whales are likely to be present in this locality during the month of April, but observation data collected during April 2021 suggest that in 2022 there may be more right whales in the area than the model predicts (Figure 2). Given the empirical evidence collected in 2021, it is likely that the risk reduction estimated in this small area may have even greater value to the right whale population than the percent reduction suggests, particularly in years when right whale aggregations are high.

The economic impact of an April fishery closure to lobster and Jonah crab trap/pot buoy lines is estimated to be small relative to the total value of the fishery. It is estimated to impact approximately 37 vessels and represents a landing value of approximately $2,210 per vessel for a total cost of $82,869. This estimate is a worse-case scenario that assumes the gear is removed rather than relocated elsewhere. The number of vessels impacted was calculated from the average number of vessels fishing within the MRA Wedge during April from 2015 to 2019 according to Vessel Trip Report (VTR) data, and was adjusted based on the average percentage of Lobster Management Area 1 lobster-only vessels required to provide VTR data in Massachusetts, which is 42 percent. Landing values were similarly averaged for April using landing pounds from VTR data and April lobster prices in Massachusetts from dealer reports.

Classification

The NMFS Assistant Administrator has determined that this emergency rule is consistent with the Plan, with the emergency rulemaking authority under section 118(g) of the Marine Mammal Protection Act (MMPA), and with other applicable laws. Further evaluation of this authority and environmental impacts can be found at *https://www.fisheries.noaa.gov/alwtrp.* This emergency rule has been determined to be not significant for the purposes of Executive Order 12866.

This emergency final rule is exempt from the procedures of the Regulatory Flexibility Act because the rule will not include prior notice or an opportunity for public comment.

This emergency final rule contains no information collection requirements under the Paperwork Reduction Act of 1995.

Pursuant to 5 U.S.C. 553(b)(B), the Assistant Administrator for Fisheries finds prior notice and public comment is not required because it would be impracticable and contrary to the public interest. Right whale monthly distribution data identifies risk in unrestricted waters encapsulated on three sides by the expanded Massachusetts Restricted Area (MRA) during the month of April. The 2021 expansion of the geographic extent of the MRA to include Massachusetts State waters north to the New Hampshire border (MRA Expansion, Figure 1) mirrors the Massachusetts 2021 modification of the State water closure (322 CMR 12.04(2)). With the implementation of the MRA Expansion, approximately 200 square miles (518 square km) of Federal waters remain open to trap/pot fishing between State and Federal closures creating a wedge where 2021 data indicates that trap/pot gear is concentrated during the closure period (MRA Wedge, Figure 2). During aerial surveys in April 2021, the Center for Coastal Studies (CCS) observed right whales within this wedge alongside the presence of aggregated fishing gear (Figure 2). The gear in this area is thought to be a mix of actively fished gear and staged gear that is placed in preparation for Federal waters within the MRA to open in May. In addition, during April fishermen anticipating the May 1 opening of Federal waters of the MRA may start bringing gear offshore to prepare to move into the MRA. This, in addition to the gear from fishermen already actively fishing outside of the buoy line closure area, could increase gear density in the area. Finally, weak insertion requirements that reduce risk of serious entanglements, included in the 2021 final rule, will not yet be required in Federal waters until May 1, 2022. Given the dense concentration of high-strength vertical lines in an area with persistent right whale presence, this wedge area presents an imminent entanglement threat.

In summary, this emergency action is necessary to prevent risk to right whales in an area of elevated risk in Massachusetts Bay in April 2022. Providing prior notice through proposed rulemaking and public comment period in the normal rulemaking process would be counter to public interest by delaying implementation of emergency measures intended to provide relief for this time sensitive management problem. For the reasons outlined above, NMFS finds it impracticable and contrary to the public interest to provide prior notice and public comment on these emergency measures.

References

NMFS. 2019. Guidance on the Application of NEPA for Emergency Response Actions. Memo to National Environmental Policy Act (NEPA) Practitioners. September 23, 2019.

NMFS. 2021a. Draft U.S. Atlantic and Gulf of Mexico Marine Mammal Stock Assessments 2021 *https://media.fisheries.noaa.gov/2021-10/Draft%202021%20NE%26SE%20SARs.pdf.*

NMFS. 2021b. Final Environmental Impact Statement, Regulatory Impact Review, and Initial Regulatory Flexibility Analysis for Amending the Atlantic Large Whale Take Reduction Plan: Risk Reduction Rule. NOAA, National Marine Fisheries Service, Greater Atlantic Regional Fisheries Office.

Pace, R.M., P.J. Corkeron, and S.D. Kraus. 2017. State-space mark-recapture estimates reveal a recent decline in abundance of North Atlantic right whales. Ecology and Evolution 7:8730–8741.

Pace, R.M. 2021. Revisions and Further Evaluations of the Right Whale Abundance Model: Improvements for Hypothesis Testing. NOAA Technical Memorandum NMFS–NE–269. Northeast Fisheries Science Center, Woods Hole, MA.

Pace, R.M., R. Williams, S.D. Kraus, A.R. Knowlton, and H.M. Pettis. 2021. Cryptic mortality of North Atlantic right whales. Conservation Science and Practice 2021:e346.

Pettis, H.M., R.M. Pace, and P.K. Hamilton. 2022. North Atlantic Right Whale Consortium 2021 Annual Report Card. Report to the North Atlantic Right Whale Consortium.

List of Subjects in 50 CFR Part 229

Administrative practice and procedure, Confidential business information, Endangered Species, Fisheries, Marine mammals, Reporting and recordkeeping requirements.

Dated: February 23, 2022.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs, 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 50 CFR part 229 continues to read as follows:

Authority: 16 U.S.C. 1361 *et seq.;* § 229.32(f) also issued under 16 U.S.C. 1531 *et seq.*

■ 2. In § 229.32, add paragraph (c)(3)(iv) to read as follows:

§ 229.32 Atlantic large whale take reduction plan regulations.

* * * * *

(c) * * *

(3) * * *

(iv) *Massachusetts Restricted Area emergency extension.* During the period April 1–30, 2022, the Massachusetts Restricted Area defined in paragraph (c)(3)(i) of this section is extended from the Massachusetts State waters boundary at MRAW1 to MRAW2 (also MRA3 in Table 11 to paragraph (c)(3)(i)), then it is bounded by a rhumb line connecting points MRAW2 to MRAW3 (MRA4), and then bounded by a rhumb line connecting points MRAW3 through MRAW4 (MRA5) back to MRAW1, in the order detailed in Table 11a to this paragraph (c)(3)(iv). From April 1, 2022, through April 30, 2022, it is prohibited to fish with, set, or possess trap/pot gear in the area in this paragraph (c)(3)(iv) unless it is fished without buoy lines or with buoy lines that are stored on the bottom until remotely released for hauling, or buoy lines that are stowed in accordance with § 229.2. Authorizations for fishing without buoy lines must be obtained if such fishing would not be in accordance with surface marking requirements of §§ 697.21 and 648.84 of this title or other applicable fishery management regulations in this title. The minimum number of trap/trawl gear configuration requirements specified in paragraph (c)(2)(iv) of this section remain in effect unless an exemption to those requirements is authorized.

TABLE 11a TO PARAGRAPH (c)(3)(iv)

Point	Lat	Long
MRAW1	42°39.77′	70°30′
MRAW2 (MRA3)	42°12′	70°38.69′
MRAW3 (MRA4)	42°12′	70°30′
MRAW4 (MRA5)	42°30′	70°30′
MRAW1	42°39.77′	70°30′

* * * * *

[FR Doc. 2022–04291 Filed 3–1–22; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 160426363–7275–02; RTID 0648–XB854]

Coastal Migratory Pelagic Resources of the Gulf of Mexico and Atlantic Region; 2021–2022 Closure of Commercial Run-Around Gillnet Fishery for King Mackerel

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS closes commercial harvest of king mackerel in the southern zone of the Gulf of Mexico (Gulf) exclusive economic zone (EEZ) using run-around gillnet gear. NMFS has determined that the commercial annual catch limit (ACL) for king mackerel harvested by run-around gillnet gear in the Gulf southern zone has been reached. Therefore, NMFS implements an accountability measure (AM) and closes the southern zone to commercial king mackerel fishing using run-around gillnet gear in the Gulf EEZ on March 2, 2022. This closure is necessary to protect the Gulf king mackerel resource.

DATES: The closure is effective from 12 p.m. local time on March 2, 2022, until 6 a.m. local time on January 17, 2023.

FOR FURTHER INFORMATION CONTACT: Kelli O'Donnell, NMFS Southeast Regional Office, telephone: 727–824–5305, email: *kelli.odonnell@noaa.gov.*

SUPPLEMENTARY INFORMATION: The fishery for coastal migratory pelagic fish in the Gulf includes king mackerel, Spanish mackerel, and cobia, and is managed under the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and Atlantic Region (FMP). The FMP was prepared by the Gulf of Mexico and South Atlantic Fishery Management Councils. NMFS implements the FMP under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622. All weights for the Gulf migratory group of king mackerel (Gulf king mackerel) apply as either round or gutted weight.

The commercial fishery for Gulf king mackerel is divided into western, northern, and southern zones. The southern zone for Gulf king mackerel encompasses an area of the Gulf EEZ off Collier and Monroe Counties in south Florida, which is the EEZ south of a line extending due west from the boundary of Lee and Collier Counties on the Florida west coast, and south of a line extending due east from the boundary of Monroe and Miami-Dade Counties on the Florida east coast (50 CFR 622.369(a)(1)(iii)).

The commercial ACL for Gulf king mackerel is divided into separate ACLs for hook-and-line and run-around gillnet gear. The use of run-around gillnets for king mackerel is restricted to the Gulf southern zone. The commercial gillnet quota (equivalent to the commercial gillnet ACL) for Gulf king mackerel is normally 575,400 lb (260,997 kg) and the current fishing year is from July 1, 2021, through June 30, 2022 (50 CFR 622.384(b)(1)(iii)(B)). However, on October 5, 2021, NMFS published a temporary rule in the **Federal Register** to reduce the commercial gillnet ACL for the 2021–2022 fishing year (86 FR 54871, October 5, 2021). NMFS determined that landings in the 2020–2021 fishing year of king mackerel harvested by run-around gillnet gear exceeded the commercial quota of 575,400 lb (260,997 kg) by 11,920 lb (5,407 kg). The AM specified in 50 CFR 622.388(a)(1)(iii) states if commercial landings of king mackerel caught by run-around gillnet gear exceed the ACL, then NMFS will reduce the commercial gillnet ACL in the following fishing year by the amount of the ACL overage. Therefore, NMFS reduced the 2021–2022 commercial gillnet ACL to 563,480 lb (255,590 kg) for the 2021–2022 fishing year.

Further, regulations at 50 CFR 622.388(a)(1) require NMFS to close any component of the king mackerel commercial sector when its applicable quota has been reached, or is projected to be reached, by filing a notification to that effect with the Office of the Federal Register. NMFS has determined that for the 2021–2022 fishing year, landings have reached the commercial quota for Gulf king mackerel on vessels using run-around gillnet gear in the southern zone. Accordingly, commercial fishing using such gear in the southern zone is closed at 12 p.m. local time on March 2, 2022. The next fishing season begins at 6 a.m. local time on January 17, 2023, *i.e.,* the day after the 2023 Martin Luther King, Jr. Federal holiday. Vessel operators that have been issued a Federal commercial permit to harvest Gulf king mackerel using run-around gillnet gear in the southern zone must have landed ashore and bartered, traded, or sold such king