

The restrictions for the DAM zone are as follows: All anchored gillnet and lobster trap gear must be removed from these waters and no new gear may be set during the 15-day restricted period. The restrictions will be in effect beginning at 0001 hours December 5, 2002, through 2400 hours December 20, 2002, unless terminated sooner or extended by NMFS, through another notification in the **Federal Register**. The restrictions will be announced to state officials, fishermen, Atlantic Large Whale Take Reduction Team (ALWTRT) members, and other interested parties through e-mail, phone contact, NOAA website, and other appropriate media immediately upon filing with the **Federal Register**.

#### Classification

In accordance with section 118(f)(9) of the MMPA, the Assistant Administrator (AA) has determined that this action is necessary to implement a take reduction plan to protect North Atlantic right whales.

This action falls within the scope of alternatives and impacts analyzed in the Final EA prepared for the ALWTRP's DAM program. Further analysis under the National Environmental Policy Act (NEPA) is not required.

Providing prior notice and an opportunity for public comment on this action would prevent NMFS from executing its functions to protect and reduce serious injury and mortality of endangered right whales. To meet the goals of the DAM program, the agency needs to be able to create a DAM zone and implement restrictions on fishing gear as soon as possible once the criteria are triggered and NMFS determines that a DAM restricted zone is appropriate. The criteria were triggered with respect to this temporary rule on November 20, 2002. If NMFS were to provide notice and an opportunity for public comment prior to the creation of a DAM restricted zone, the aggregated right whales would be vulnerable to entanglement which could result in serious injury and mortality. Therefore, pursuant to 5 U.S.C. 553(b)(B), the AA finds that good cause exists to waive notice and an opportunity to comment on this action to implement a DAM restricted zone to reduce the risk of entanglement of endangered right whales in commercial lobster trap and anchored gillnet gear as such procedures would be impracticable.

For the same reasons, the AA finds that, under 5 U.S.C. 553(d)(3), good cause exists to waive the 30-day delay in effective date. If NMFS were to delay for 30 days the effective date of this action, the aggregated right whales

would be vulnerable to entanglement which could result in serious injury and mortality. Nevertheless, NMFS recognizes the need for fishermen to have time to remove their gear from a DAM zone once one is approved. Thus, NMFS makes this action effective beginning at 0001 hours December 5, 2002, through 2400 hours December 20, 2002. NMFS will also endeavor to provide notice of this action to fishermen through other means as soon as possible.

NMFS determined that the regulations establishing the DAM program and actions such as this one taken pursuant to those regulations are consistent to the maximum extent practicable with the enforceable policies of the approved coastal management program of the U.S. Atlantic coastal states. This determination was submitted for review by the responsible state agencies under section 307 of the Coastal Zone Management Act. Following state review of the regulations creating the DAM program, no state disagreed with NMFS' conclusion that the DAM program is consistent to the maximum extent practicable with the enforceable policies of the approved coastal management program for that state.

The DAM program under which NMFS is taking this action contains policies with federalism implications warranting preparation of a federalism assessment under Executive Order 13132. Accordingly, in October 2001, the Assistant Secretary for Intergovernmental and Legislative Affairs, DOC, provided notice of the DAM program to the appropriate elected officials in states to be affected by actions taken pursuant to the DAM program. Federalism issues raised by state officials were addressed in the final rule implementing the DAM program. A copy of the federalism Summary Impact Statement for that final rule is available upon request (**ADDRESSES**).

This rule has been determined to be not significant under Executive Order 12866.

**Authority:** 16 U.S.C. 1361 *et seq.* and 50 CFR 229.32(g)(3)

Dated: November 29, 2002.

**Rebecca Lent,**

*Deputy Assistant Administrator for Regulatory Programs/National Marine Fisheries Service.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 622

[Docket No. 001005281-0369-02; I.D. 112602D]

#### 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 Gulf king mackerel resource.

**DATES:** The closure is effective 12:01 a.m., local time, November 30, 2002, through June 30, 2003.

**FOR FURTHER INFORMATION CONTACT:** Mark Godcharles, telephone 727-570-5305, fax 727-570-5583, e-mail [Mark.Godcharles@noaa.gov](mailto: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 April 30, 2001 (66 FR 17368, March 30, 2001), NMFS implemented a commercial quota of 2.25 million lb (1.02 million kg) for the eastern zone (Florida) of the Gulf migratory group of king mackerel. That quota is further divided into separate quotas for the Florida east coast subzone and the northern and southern Florida west coast subzones. On April 27, 2000, NMFS implemented the final rule (65 FR 16336, March 28, 2000) that divided the Florida west coast subzone of the eastern zone into northern and southern subzones, and established their separate

quotas. The quota implemented for the northern Florida west coast subzone is 168,750 lb (76,544 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 168,750 lb (76,544 kg) for Gulf group king mackerel in the northern Florida west coast subzone was reached on November 30, 2002. Accordingly, the commercial fishery for king mackerel in the northern Florida west coast subzone is closed at 12:01 a.m., local time, November 30, 2002, through June 30, 2003, 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 October 25, 2002 (67 FR 65902, October 29, 2002). 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, 2003.

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. 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 Assistant Administrator for Fisheries, NOAA, finds that the need to immediately implement this action to close the fishery constitutes good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth in 5 U.S.C. 553(b)(3)(B), as such procedures would be unnecessary and contrary to the public interest. Similarly, there is a need to implement these measures in a timely fashion to prevent an overrun of the commercial quota of Gulf group king mackerel, given the capacity of the fishing fleet to harvest the quota quickly. 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 27, 2002.

**Bruce C. Morehead,**

*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 622

[I.D. 112602E]

#### 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:** Trip limit reduction.

**SUMMARY:** NMFS reduces the trip limit in the commercial hook-and-line fishery for king mackerel in the northern Florida west coast subzone to 500 lb (227 kg) of king mackerel per day in or from the exclusive economic zone (EEZ). This trip limit reduction is necessary to protect the Gulf king mackerel resource.

**DATES:** This rule is effective 12:01 a.m., local time, November 30, 2002, through June 30, 2003, unless changed by further notification in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Mark Godcharles, telephone 727-570-5305, fax 727-570-5583, e-mail [Mark.Godcharles@noaa.gov](mailto: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 April 30, 2001 (66 FR 17368, March 30, 2001), NMFS implemented a commercial quota of 2.25 million lb (1.02 million kg) for the eastern zone (Florida) of the Gulf migratory group of king mackerel. That quota is further divided into separate quotas for the Florida east coast subzone and the northern and southern Florida west coast subzones. On April 27, 2000, NMFS implemented the final rule (65 FR 16336, March 28, 2000) that divided the Florida west coast subzone of the eastern zone into northern and southern subzones, and established their separate quotas. The quota for the northern Florida west coast subzone is 168,750 lb (76,544 kg)(50 CFR 622.42(c)(1)(i)(A)(2)(ii)).

In accordance with 50 CFR 622.44(a)(2)(ii)(B), from the date that 75 percent of the northern Florida west coast subzone's quota has been harvested until a closure of the subzone's fishery has been effected or the fishing year ends, king mackerel in or from the EEZ may be possessed on board or landed from a permitted vessel