

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 970930235-8028-02; I.D. 022498A]

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 run-around gillnet fishery for king mackerel in the exclusive economic zone (EEZ) in the Florida west coast subzone. This closure is necessary to protect the overfished Gulf king mackerel resource.

DATES: Effective 6:00 p.m., local time, February 24, 1998, through June 30, 1998.

FOR FURTHER INFORMATION CONTACT: Mark F. Godcharles, 813-570-5305

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, NMFS recently implemented (63 FR 8353, February 19, 1998) a commercial quota for the Gulf of Mexico migratory group of king mackerel in the Florida west coast subzone of 1.17 million lb (0.53 million kg). That quota was further divided into two equal quotas of 585,000 lb (265,352 kg) for vessels in each of two groups by gear types—vessels fishing with run-around gillnets and those using hook-and-line gear (50 CFR 622.42(c)(1)(i)(A)(2)). The fishery was opened February 20, 1998 (63 FR 9158, February 24, 1998), to allow harvest of the remaining balance between the newly implemented quota and former, lower quota of 432,500 lb (196,179 kg).

In accordance with 50 CFR 622.43(a)(3), NMFS is required to close any segment of the king mackerel commercial fishery when its allocation or quota is reached or is projected to be reached by publishing a notification in the **Federal Register**. NMFS has determined that the commercial quota of 585,000 lb (265,352 kg) for Gulf group king mackerel for vessels using run-around gillnets in the Florida west coast subzone was reached on February 23, 1998. Accordingly, the commercial fishery for king mackerel for such vessels in the Florida west coast subzone is closed effective 6:00 p.m., local time, February 24, 1998, through June 30, 1998, the end of the fishing year.

The Florida west coast subzone extends from 87°31'06" W. long. (due south of the Alabama/Florida boundary) to: (1) 25°20.4' N. lat. (due east of the Dade/Monroe County, FL, boundary) through March 31, 1998; and (2) 25°48' N. lat. (due west of the Monroe/Collier County, FL, boundary) from April 1, 1998, through October 31, 1998.

Classification

This action is taken under 50 CFR 622.43(a)(3) and is exempt from review under E.O. 12866.

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

Dated: February 24, 1998.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.
[FR Doc. 98-5183 Filed 2-24-98; 3:20 pm]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 697

[Docket No. 980129023-8023-01; I.D. 121997B]

RIN: 0648-AJ74

Atlantic Coastal Fisheries Cooperative Management Act Provisions; American Lobster Fishery; Interim Prohibition on Certain Vessels Landing Lobster in Excess of Specified Limits

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

ACTION: Interim final rule; request for comments.

SUMMARY: NMFS issues this interim final rule to implement Congressionally mandated regulations contained in the

Sustainable Fisheries Act (SFA), which amended the Atlantic Coastal Fisheries Cooperative Management Act (Atlantic Coastal Act). The interim final rule implements regulations that prohibit any vessel that takes lobster in the Exclusive Economic Zone (EEZ) by a method other than pots or traps from landing lobsters (or any parts thereof) at any location within the United States in excess of 100 lobsters (or parts thereof) for each fishing trip of 24 hours, or less duration, 500 lobsters (or parts thereof) during any 5-day period; or 500 lobsters (or parts thereof) for each fishing trip of 5 days or longer.

DATES: Effective March 1, 1998. Written comments must be received on or before April 1, 1998. Comments will be considered by NMFS during separate and forthcoming proposed regulations to end overfishing of American lobsters by all methods of harvest in the EEZ.

ADDRESSES: Comments on the rule should be sent to, and copies of the environmental assessment/regulatory impact review (EA/RIR) are available from, Richard H. Schaefer, Chief, Staff Office for Intergovernmental and Recreational Fisheries, NMFS, 8484 Georgia Avenue, Suite 425, Silver Spring, MD 20910-3282.

FOR FURTHER INFORMATION CONTACT: Tom Meyer, Telephone 301-427-2014

SUPPLEMENTARY INFORMATION:

Background

On October 11, 1996, the Sustainable Fisheries Act (SFA) was signed into law (Pub. L. 104-297). The SFA amended, among other statutes, the Atlantic Coastal Fisheries Cooperative Management Act (16 U.S.C. 5101 *et seq.*). Section 404(c) of the SFA amended the Atlantic Coastal Act by adding a new section 810 to require that, if no regulations have been issued under section 804(b) of the Atlantic Coastal Act by December 31, 1997, to implement a coastal fishery management plan for American lobster, the Secretary of Commerce (Secretary) shall issue interim regulations before March 1, 1998, that will prohibit any vessel that takes lobsters in the EEZ by a method other than pots or traps from landing lobsters (or any parts thereof) at any location within the United States in excess of 100 lobsters (or parts thereof) for each fishing trip of 24 hours, or less duration, 500 lobsters (or parts thereof) during any 5-day period, or 500 lobsters (or parts thereof) for a trip of 5 days or longer. Additionally, the Secretary, before January 1, 1998, shall monitor, on a timely basis, landings of American lobster, and, if the Secretary determines that catches from vessels that take

lobsters in the EEZ by a method other than pots or traps have increased significantly, then the Secretary may, consistent with the national standards in section 301 of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act)(16 U.S.C. 1801) and after opportunity for public comment and consultation with the Atlantic States Marine Fisheries Commission (ASMFC), implement regulations under section 804(b) of the Atlantic Coastal Act that are necessary for the conservation of American lobster. Regulations issued under section 810 of the Atlantic Coastal Act shall remain in effect until the Secretary implements regulations under section 804(b) of the Atlantic Coastal Act to implement a coastal fishery management plan for American lobster.

Discussion

The ASMFC's Amendment 3 to the Fishery Management Plan for American Lobster (Lobster Plan) was approved by ASMFC on December 12, 1997. NMFS participated in the development of the Lobster Plan, and, therefore, until the Lobster Plan was completed, could not develop regulations compatible with ASMFC's plan under section 804(b) of the Atlantic Coastal Act. Since approval of Amendment 3, NMFS has begun developing regulations under section 804(b) of the Atlantic Coastal Act, but these regulations will not be in place by March 1, 1998. Therefore, the Congressionally mandated interim regulations contained herein are being issued under section 810(a) of the Atlantic Coastal Act until regulations under section 804(b) are completed. These interim regulations will be one of the alternatives assessed in developing regulations under section 804(b).

This interim final rule consists of definitions of terms and three prohibitions that apply to vessels that take lobsters in the EEZ by any method other than pots or traps. The first prohibition applies to fishing trips of 24 hours, or less in duration, and implements a landing limit of 100 lobsters, or parts thereof, for each such trip. The second prohibition applies to any 5-day period, and implements a landing limit of 500 lobster, or parts thereof. The third prohibition applies to fishing trips longer than 5 days and implements a 500 lobster, or parts thereof, landing limit for any trip longer than 5 days. This interim final rule does not supersede the existing regulations

under the Magnuson-Stevens Act that appear at 50 CFR part 648 and 649, including applicability to vessels that have lobster permits under 50 CFR 649.4.

Classification

This rule is consistent with 5107b of the Atlantic Coastal Fisheries Cooperative Management Act.

Under authority of 5 U.S.C 553(b)(B), NMFS is waiving the requirement to provide prior notice and an opportunity for public comment as these procedures are unnecessary. This rule and its provisions are mandated by the Atlantic Coastal Fisheries Cooperative Management Act (16 U.S.C. 5101 *et seq.*). NMFS has no discretion in implementing the provisions of this statute; therefore, prior notice and comment are unnecessary, as NMFS has no authority to alter any provisions of the statute. However, NMFS is requesting comments on this rule for consideration during the development of separate and forthcoming proposed regulations to end overfishing of American lobsters by all methods of harvest in the EEZ. Pursuant to 5 U.S.C. 553(d)(3), the Assistant Administrator for Fisheries, NOAA, finds for good cause that a full 30-day delay in the effective date of this rule is unnecessary because the possession limits implemented herein are not a requirement for which regulated entities require time to come into compliance.

Because prior notice and an opportunity for public comment are not required to be provided for this rule by 5 U.S.C. 553, or any law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are inapplicable. Therefore, no initial regulatory flexibility analysis was prepared.

This interim final rule has been determined to be not significant for purposes of E.O. 12866.

List of Subjects in 50 CFR Part 697

Administrative practice and procedure, Fisheries, Fishing.

Dated: February 25, 1998.

Rolland A. Schmitt,

*Assistant Administrator for Fisheries,
National Marine Fisheries Services.*

For the reasons set out in the preamble, 50 CFR part 697 is amended as follows:

PART 697—ATLANTIC COASTAL FISHERIES COOPERATIVE MANAGEMENT

1. The authority citation for part 697 continues to read as follows:

Authority: 16 U.S.C. 1851 note; 16 U.S.C. 5101 *et seq.*

2. In § 697.2, definitions for "American lobster," "Fishing trip," "Parts thereof," "Pot or Trap," are added, in alphabetical order, to read as follows:

§ 697.2 Definitions.

* * * * *

American lobster or lobster means the species *Homarus americanus*.

* * * * *

Fishing trip or trip means a period of time during which fishing is conducted, beginning when the vessel leaves port and ending when the vessel returns to port.

* * * * *

Parts thereof means any part of an American lobster.

* * * * *

Pot or Trap means any structure or other device that, other than a net, is placed on the ocean bottom and is designed to or is capable of catching lobsters.

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3. In § 697.6, paragraph (c) is added to read as follows:

§ 697.6 Prohibitions.

* * * * *

(c) *American Lobster fishery.* In addition to the prohibitions set forth in § 600.725 of this chapter and the restrictions set forth in § 648.80 of this chapter, it is unlawful for a vessel that has a vessel permit issued under 50 CFR 649.4, that takes lobsters by any method other than pots or traps, or that takes lobsters on a fishing trip in the EEZ by any method other than pots or traps to do any of the following:

(1) For each fishing trip of 24 hours or less duration, land American lobsters in excess of 100 lobsters, or parts thereof.

(2) During any 5-day period, land American lobsters in excess of 500 lobsters, or parts thereof.

(3) For each fishing trip of 5 or more days duration, land American lobsters in excess of 500 lobsters, or parts thereof.

[FR Doc. 98-5319 Filed 2-25-98; 3:11 pm]

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