

for an agreement under the Department of State Mentor-Protégé Program.

#### Subpart 653.3 [Removed]

■ 94. Subpart 653.3, consisting of sections 653.000 and 653.303, is removed.

Dated: March 11, 2004.

Corey M. Rindner,

*Procurement Executive, Bureau of Administration, Department of State.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 622

[Docket No. 001005281-00369-02; I.D. 040704B]

#### 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 hook-and-line fishery for king mackerel in the exclusive economic zone (EEZ) in the southern Florida west coast subzone. This closure is necessary to protect the Gulf group king mackerel resource.

**DATES:** Effective 12:01 a.m., local time, April 9, 2004, through June 30, 2004.

**FOR FURTHER INFORMATION CONTACT:** Mark Godcharles, telephone: 727-570-5727, 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 southern Florida west coast subzone is 1,040,625 lb (472,020 kg). That quota is further divided into two equal quotas of 520,312 lb (236,010 kg) for vessels in each of two groups fishing with hook-and-line gear and run-around gillnets (50 CFR 622.42(c)(1)(i)(A)(2)(i)).

Under 50 CFR 622.43(a), 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 520,312 lb (236,010 kg) for Gulf group king mackerel for vessels using hook-and-line gear in the southern Florida west coast subzone was reached on April 6, 2004.

Accordingly, the commercial hook-and-line fishery for king mackerel in the southern Florida west coast subzone is closed effective 12:01 a.m., local time, April 9, 2004, through June 30, 2004, 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 southern subzone is that part of the Florida west coast subzone which from November 1 through March 31 extends south and west from 25°20.4' N. lat. to 26°19.8' N. lat. (a line directly west from the Lee/Collier County, FL boundary), i.e., the area off Collier and Monroe Counties. From April 1 through October 31, the southern subzone is that part of the Florida west coast subzone which is between 26°19.8' N. lat. and 25°48' N. lat. (a line directly west from the Monroe/Collier County, FL boundary), i.e., the area off Collier County.

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 September 24,

2003 (68 FR 55554, September 26, 2003). Subsequently, NMFS determined that the commercial quota for Gulf group king mackerel in the northern Florida west coast subzone was reached and closed that segment of the fishery on November 13, 2003 (68 FR 64820; November 17, 2003). 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 southern Florida west coast subzone through June 30, 2004, except for vessels fishing with run-around gillnets in the southern Florida west coast subzone.

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, (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), 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 closure. 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: April 8, 2004.

**Alan D. Risenhoover,**

*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 660

[Docket No. 031125288-4102-02; I.D. 110303A]

RIN 0648-AR35

#### Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Amendment 16-2

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

**ACTION:** Final rule.

**SUMMARY:** NMFS issues this final rule to implement Amendment 16-2 to the Pacific Coast Groundfish Fishery Management Plan (FMP). Amendment 16-2 amended the FMP to include overfished species rebuilding plans for lingcod, canary rockfish, darkblotched rockfish, and Pacific ocean perch (POP) within the FMP. This final rule adds two rebuilding parameters to the Code of Federal Regulations (CFR) for each overfished stock, the target year for rebuilding and the harvest control rule.

Amendment 16-2 addressed the requirements of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) to protect and rebuild overfished species managed under a Federal FMP. Amendment 16-2 also responded to a Court order, in which NMFS was ordered to provide Pacific Coast groundfish rebuilding

plans as FMPs, FMP amendments, or regulations, per the Magnuson-Stevens Act.

**DATES:** Effective May 13, 2004.

**ADDRESSES:** Copies of Amendment 16-2 and the final environmental impact statement/regulatory impact review/initial regulatory flexibility analysis (FEIS/RIR/IRFA) are available from Donald McIsaac, Executive Director, Pacific Fishery Management Council (Council), 7700 NE Ambassador Place, Portland, OR 97220, phone: 503-820-2280. These documents are also available online at the Council's website at <http://www.pcouncil.org>.

**FOR FURTHER INFORMATION CONTACT:**

Becky Renko (Northwest Region, NMFS), phone: 206-526-6150; fax: 206-526-6736 or; e-mail: [becky.renko@noaa.gov](mailto:becky.renko@noaa.gov).

**SUPPLEMENTARY INFORMATION:**

#### Electronic Access

The proposed and final rules for this action are accessible via the Internet at the Office of the **Federal Register's** website at <http://www.gpoaccess.gov/fr/index.html>. Background information and documents are available at the NMFS Northwest Region website at <http://www.nwr.noaa.gov/1sustfsh/gdfsh01.htm> and at the Council's website at <http://www.pcouncil.org>.

#### Background

Amendment 16-2 revised the FMP to include overfished species rebuilding plans for lingcod, canary rockfish, darkblotched rockfish, and POP. This final rule implements Amendment 16-2 by adding two rebuilding parameters, the target year in which the stock would be rebuilt under the adopted rebuilding plan ( $T_{TARGET}$ ) and the harvest control rule, to the CFR at 50 CFR 660.370 for each overfished stock.

Amendment 16-2 addressed the requirements of the Magnuson-Stevens Act) to protect and rebuild overfished species managed under a Federal FMP. Amendment 16-2 also responded to a Court order in *Natural Resources Defense Council, Inc. v. Evans*, 168 F. Supp. 2d 1149 (N.D. Cal 2001), in which NMFS was ordered to provide Pacific Coast groundfish rebuilding plans as FMPs, FMP amendments, or regulations, per the Magnuson-Stevens Act.

A Notice of Availability for Amendment 16-2 was published on November 7, 2003 (68 FR 63053). NMFS requested comments on the amendment under the Magnuson-Stevens Act FMP amendment review provisions for a 60-day comment period, ending January 6, 2004. A proposed rule was published on

December 5, 2003 (68 FR 67998), requesting public comment through January 5, 2004. During the Amendment 16-2 and proposed rule comment period, NMFS received four letters of comment. These letters are addressed later in the preamble to this final rule. The preamble to the proposed rule for this action provides additional background information on the fishery and on this final rule. Further detail on Amendment 16-2 also appears in the FEIS/RIR/IRFA for this action which was prepared by the Council.

After consideration of the public comments received on the amendment, NMFS approved Amendment 16-2 on January 30, 2004. As required by the standards established by Amendment 16-1, the rebuilding plans adopted under Amendment 16-2 for lingcod, canary rockfish, darkblotched rockfish, and POP specified the following rebuilding parameters in the FMP: unfished biomass ( $B_0$ ) and target biomass ( $B_{MSY}$ ), the year the stock would be rebuilt in the absence of fishing ( $T_{MIN}$ ), the year the stock would be rebuilt if the maximum time period permissible under national standard guidelines were applied ( $T_{MAX}$ ), and the target year in which the stock would be rebuilt under the adopted rebuilding plan ( $T_{TARGET}$ ). Other information relevant to rebuilding was also included. The estimated rebuilding parameters will serve as management benchmarks in the FMP and the FMP will not be amended if the values for these parameters change after new stock assessments and rebuilding analyses are completed, as is likely to happen.

Amendment 16-1 specified two rebuilding parameters,  $T_{TARGET}$  and the harvest control rule for the rebuilding period, that are to be codified in Federal regulations for each individual species rebuilding plan. This final rule adds these rebuilding parameters to the CFR at 50 CFR 660.370 for lingcod, canary rockfish, darkblotched rockfish, and POP.  $T_{TARGET}$  is the year in which there is a 50-percent likelihood that the stock will have been rebuilt with a given mortality rate. The harvest control rule expresses a given fishing mortality rate that is to be used over the course of rebuilding. These parameters will be used to establish the optimum yields (OYs-harvest specifications) for species with rebuilding plans. Conservation and management goals defined in the FMP require the Council and NMFS to manage to the appropriate OY for each species or species groups, including those OYs established for rebuilding overfished species. The OYs and management measures will be set on an