and Wildlife Office (see **ADDRESSES** section).

Author

The primary author of this proposed rule is Dwight Harvey, U.S. Fish and Wildlife Service, Sacramento Fish and Wildlife Office (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Proposed Regulations Promulgation

Accordingly, we propose to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 6 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

2. Section 17.11(h) is amended by adding the following, in alphabetical order under ''MAMMALS,'' to the List of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
MAMMALS							
*	*	*	*	*	*		*
Shrew, Buena Vista Lake.	*Sorex ornatus relictus.*	U.S.A. (CA)	Entire	E	699	NA	NA
*	*	*	*	*	*		*

Dated: May 16, 2000.

Jamie Rappaport Clark,

Director, Fish and Wildlife Service.

[FR Doc. 00–13706 Filed 5–31–00; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 000511131–0131–01; I.D. 021500A]

RIN 0648–AM75

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Amendment 12

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to implement Amendment 12 to the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (Amendment 12). This rule would extend the current moratorium on the issuance of commercial vessel permits for king mackerel through October 15, 2005. The intended effects of this proposed rule are to prevent speculative entry into the fishery and provide stability in the fishery.

DATES: Comments must be received no later than 5 p.m., eastern standard time, on July 3, 2000.

ADDRESSES: Written comments on the proposed rule must be sent to Dr. Steve Branstetter, Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702. Comments also may be sent via fax to 727–570–5583. Comments will not be accepted if submitted via e-mail or Internet.

Comments regarding the collection-of-information requirements contained in this rule should be sent to Edward E. Burgess, Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702, and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 (Attention: NOAA Desk Officer).

Copies of Amendment 12, which includes an environmental assessment and a regulatory impact review (RIR), may be obtained from the Gulf of Mexico Fishery Management Council, Suite 1000, 3018 U.S. Highway 301 North, Tampa, FL 33619; telephone: 813–228–2815; fax: 813–225–7015; e-mail: Gulf.Council@noaa.gov; or from the South Atlantic Fishery Management Council, Southpark Building, One Southpark Circle, Suite 306, Charleston, SC 29407–4699; telephone: 843–571–4366; fax: 843–769–4520; e-mail: Safmc@noaa.gov.

FOR FURTHER INFORMATION CONTACT: Dr. Steve Branstetter; telephone: 727–570–5305; fax: 727–570–5583; e-mail: Steve.Branstetter@noaa.gov.

SUPPLEMENTARY INFORMATION: The fisheries for coastal migratory pelagic resources are 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 jointly by the Gulf of Mexico Fishery Management Council and the South Atlantic Fishery Management Council (Councils), approved by NMFS, and implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

Background

Amendment 8 to the FMP, implemented in March 1998 (63 FR 10561, March 4, 1998), established a moratorium on commercial king mackerel permits through October 15, 2000. To obtain a king mackerel permit under the moratorium, a vessel owner must have owned a vessel with a commercial vessel permit for king mackerel on or before October 16, 1995, the control date for the king mackerel fishery (60 FR 53576, October 16, 1995). The intent of the moratorium is to prevent further increases in effort, to stabilize the economic performance of current participants, and possibly to reduce the number of permittees in the king mackerel fishery. The Councils noted that the number of commercial vessel permits for mackerel had increased from 1,280 to 2,754 between the 1987–88 and 1997–98 fishing years. As of March 25, 1999, the number of king and Spanish mackerel permits has declined to 2,109.

Under section 303(d)(1)(A) of the Magnuson-Stevens Act, the Councils are

precluded from submitting to NMFS, prior to October 1, 2000, an individual fishing quota (IFQ) program or an individual transferable quota (ITQ) program for agency review, approval, and implementation. The Gulf Council's development of Amendment 8 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico, which was to establish a limited entry program for the commercial red snapper fishery in the Gulf (i.e., an ITQ system), required more than one year to complete. Based on this experience, the Councils have concluded that there would be insufficient time to develop a limited access program for the commercial king mackerel fishery prior to the expiration of the current moratorium.

Currently, the commercial king mackerel fisheries of both the South Atlantic and Gulf of Mexico are valued at approximately $7 million annually and are subject to closures when the quotas are filled. For the western Gulf zone, the fishery is open for approximately 6 weeks, beginning on July 1 of each year. For the eastern Gulf zone, the Florida west coast gillnet fishery closes in a matter of days after the fishery begins in January; the Florida west coast hook-and-line fishery for Gulf group king mackerel has usually closed in February or March, after a July 1 opening. The Florida east coast fishery for Gulf group king mackerel has usually closed in March after a November 1 opening; and the commercial hook-and-line fishery for Atlantic group king mackerel has reached its quota in two of the last 3 years. These annual closures indicate that fleet size and fishery effort are still excessive to harvest the allowable quotas.

The Atlantic stocks of king mackerel have rebounded from an overfished status and are no longer considered overfished and overfishing is not occurring. This upturn in status is the result of recent restrictions on fishing effort (i.e., adjustment of size, bag, and trip limits; the prohibition of net gear in Florida state waters; and the imposition of a moratorium on the number of permits issued in the fishery.) In response to the current status of the Atlantic king mackerel stock the South Atlantic Council has recommended a modest quota increase for this group, giving fishers the opportunity to harvest more fish and realize an increased economic benefit. This increase in quota is within the range recommended by the Mackerel Stock Assessment Panel and the Scientific and Statistical Committee. Such a relaxation of restrictions on the harvest, and thus the insurance of the increased availability of long term benefits for users, can be achieved by maintaining other measures currently in place.

Both the Gulf and South Atlantic Councils agree that allowing the moratorium to expire would result in an increased number of participants in these mackerel fisheries, most likely negating any reductions in effort that have been achieved as a result of the current moratorium. Any increase in participants would: Exacerbate the current derby fisheries that occur in the western Gulf zone and in the Florida west coast gillnet fishery, lead to even earlier closures, probably result in closures of the Atlantic group king mackerel fishery, and have an impact on the economic performance of the current participants. Increased participation would also compound the complexity of the Council's future actions to develop a controlled access system for this fishery. For example, new entrants may lose a good part of their new investments if the future assignment of fishing privileges is weighted more toward historical rather than current participation.

The Councils concluded that an extension of the existing moratorium on the issuance of commercial vessel permits for king mackerel is necessary to avoid these negative impacts and to provide adequate time for the Councils to evaluate and develop an alternative limited access or limited entry program. Therefore, this proposed rule would extend the expiration date of the existing moratorium from October 16, 2000, through October 15, 2005, or to the date of implementation of a license limitation, limited access, and/or IFQ or ITQ program that replaces the moratorium, whichever occurs first.

Changes Proposed by NMFS

To simplify the regulations, NMFS proposes to delete language in § 622.4 regarding implementation of the original moratorium on issuance of commercial vessel permits for king mackerel that is no longer pertinent.

Consistent with a recent change of the name of Dade County, FL, to Miami-Dade County, FL, NMFS proposes to revise all references to Dade County, FL, to read Miami-Dade County, FL, throughout 50 CFR part 622.

Classification

At this time, NMFS has not determined that the amendment this rule would implement is consistent with the national standards of the Magnuson-Stevens Act and other applicable laws. NMFS, in making that determination, will take into account the data, views, and comments received during the comment period on Amendment 12.

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

Notwithstanding any other provision of law, no person is required to respond to, nor shall a person be subject to a penalty for failure to comply with, a collection-of-information subject to the requirements of the Paperwork Reduction Act (PRA) unless that collection of information displays a currently valid OMB control number.

This rule includes collection-of-information requirements that are subject to the PRA. The first collection-of-information pertains to applications for commercial vessel permits. That collection is currently approved under OMB Control No. 0648–0205 and its public reporting burden is estimated at 20 minutes per response. The second collection-of-information pertains to fishing records of vessels permitted in the commercial king or Spanish mackerel fisheries. That collection is currently approved under OMB Control No. 0648–0016 and its public reporting burden is estimated at 15 minutes per response. These burden estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding these burden estimates, or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS and OMB (see **ADDRESSES**).

The Chief Counsel for Regulation of the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities as follows:

The proposed rule contains a single provision to extend the commercial king mackerel permit moratorium from its current expiration date of October 15, 2000, to October 15, 2005, or until replaced with a license limitation, limited access, and/or individual fishing quota or individual transferable quota system, whichever occurs earlier. The action covers both the Gulf of Mexico and South Atlantic Federal waters. The moratorium on new permits was first instituted in March 1998 and will expire on October 15, 2000. There is a need to extend the current moratorium on new permits because progress toward designing and implementing the intended limited access system has not been as rapid as originally envisioned. Comprehensive limited access systems are difficult to develop and implement; at this point, there is insufficient

time to institute a new limited access system for the king mackerel fishery by October 15, 2000. Hence, the current action is being proposed to provide the Councils with additional time to develop a new limited access system and to ensure that the current permit moratorium does not lapse before they have completed this task.

The entities that could be affected by changes in the current system governing the ability of individual firms to engage in the lawful harvest of king mackerel in the Gulf of Mexico and the South Atlantic consist of those firms holding commercial harvest permits. There are currently about 2,100 commercial permit holders and all could be potentially affected by the proposed action. Also, all the firms holding the permits qualify as small business entities per the definition used by the Small Business Administration. Hence, a substantial number of small business entities could be affected by the action.

The concept of status quo has a somewhat unusual context in terms of this particular proposed action. Specifically, the status quo (taking no action) means that the current permit moratorium would expire, the fishery would revert to open access, and the number of permitted fishermen would likely increase. Conversely, under the proposed action, the permit moratorium, which has existed since 1998, would remain in effect until replaced by a new limited access system.

If the status quo alternative (let the current permit moratorium expire) is taken, then there would be a number of economic effects related to a reversion of the fishery to open access. For example, given that there were over 2,600 permitted entities based on the original control date for the fishery, and about 2,100 currently, it is obvious that additional vessel owners would apply for and receive permits if the moratorium is lifted. While some of these new entrants would likely obtain a permit with the intention of only establishing fishing rights in the king mackerel fishery and would not actively participate in the fishery, other new entrants would likely participate in the fishery for one or more reasons. Some new entrants might land a minimum quantity of king mackerel on the basis that having a permit, in combination with a history of at least some level of landings, would further enhance their claim to future fishery participation rights. Other new entrants would likely become active participants in the fishery. This is probable based on the fact that a number of permit transfers occur each year, and a market has developed for these transferable king mackerel permits. The price range associated with an existing permit is not known, but permits for other species in the Gulf of Mexico and South Atlantic are known to be valued at several thousand dollars. With the moratorium lifted, new entry would be possible by paying only the administrative permit fee, currently $50 for a new permit or $20 for a king mackerel endorsement to an existing permit for another species. The value conferred on current permits by the moratorium will be lost.

It is noted that at the present time under the permit moratorium, the entity giving up a permit by transfer must exit the fishery, and current exit behavior is clearly influenced by a number of factors, including the current value of a permit. Recently available logbook data for this fishery indicates that some of the current participants do not land a large amount of king mackerel on an annual basis. These are the participants who are most likely to sell their existing permits to new entrants under the continuing condition of a permit moratorium. The reasoning is that the expected net present value of their profits (net revenues) derived from their small catches are exceeded by the current market value of their king mackerel permit. As such, the permit moratorium has resulted in a reduction in the number of permits in the king mackerel fishery.

New entrants in the king mackerel fisheries will not necessarily result in a large overall increase in catch. This is because the commercial king mackerel fishery operates under an annual quota that is enforced through fishery closures. The quota for the Gulf of Mexico fishery has typically been met each year. Although not met in recent years, the quota for the South Atlantic fishery historically has been met. However, even if the new entrants do not result in a significant increase in overall landings, an increase in the rate at which king mackerel is harvested should result, particularly in the Gulf of Mexico fishery. This scenario would exacerbate the existing derby fishery in the Gulf and would tend to lead to lower overall exvessel prices because the quota would be landed in a shorter period of time.

In summary, maintaining the status quo and thereby allowing the permit moratorium to expire would result in an increase in the number of permits, a possible increase in the annual catch, a likely decrease in exvessel prices, and a loss of the existing transfer value of existing permits. The result would be a negative economic impact on all the current permit holders, including those permit holders who might otherwise be expected to sell their permits and exit the fishery under the current system. There would also be positive impacts for at least some of the new entrants because they could obtain a permit for $20 to $50 instead of paying the existing higher market price for a permit. Some of these new entrants would be expected to participate in the fishery at a significant and profitable level. In addition to these rather straightforward impacts on current and potential new entrants, the increase in the rate at which king mackerel are harvested, especially in the Gulf where a restrictive quota pertains, would intensify the existing derby fishery and the attendant loss in economic benefits typically associated with such fisheries. Reverting to an open access fishery also means that the Councils would once again have to undertake the preliminary steps necessary to establish a comprehensive limited access system. It is likely that repeating these steps would have additional negative economic impacts on at least some of those participants who are currently permitted. For example, they may have to reestablish a fishing history or take other actions necessary to continue fishing under any new limited access system.

The overall conclusion is that if the status quo alternative was chosen and the permit moratorium allowed to expire on October 15, 2000, there would be a number of negative impacts on existing participants in the king mackerel fishery in Federal waters of the Gulf of Mexico and South Atlantic. While there would likely be some positive economic impacts for a portion of any new entrants, the negative impacts of the status quo action are expected to exceed the positive impacts. An increased number of king mackerel permits would likely create a derby fishery, particularly in the Gulf where current annual quotas constrain harvests. Taking action to extend the current permit moratorium means that the likely negative economic impacts of the status quo alternative will not occur. In other words, the proposed action of extending the permit moratorium until October 15, 2005, should forestall adverse economic changes and impacts associated with the status quo scenario of letting the moratorium expire. For these reasons, it follows that the proposed action will not result in a significant economic impact on a substantial number of small business entities.

As a result, a regulatory flexibility analysis was not required. A copy of the RIR is available from the Council (see **ADDRESSES**).

List of Subjects in 50 CFR Part 622

Fisheries, Fishing, Puerto Rico, Reporting and recordkeeping requirements, Virgin Islands.

Dated: May 24, 2000.

Andrew A. Rosenberg,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 622 is proposed to be amended as follows:

PART 622—FISHERIES OF THE CARIBBEAN, GULF, AND SOUTH ATLANTIC

1. The authority citation for part 622 continues to read as follows:

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

2. In § 622.4, the last two sentences of paragraph (a)(2)(iii), the last sentence of paragraph (a)(2)(iv), and paragraph (q) are revised to read as follows:

§ 622.4 Permits and fees.

(a) * * *

(2) * * *

(iii) * * * To obtain or renew a commercial vessel permit for king mackerel, at least 25 percent of the applicant's earned income, or at least $10,000, must have been derived from commercial fishing (i.e., harvest and first sale of fish) or from charter fishing during one of the 3 calendar years preceding the application. See paragraph (q) of this section regarding a moratorium on commercial vessel permits for king mackerel, transfers of permits during the moratorium, and

limited exceptions to the earned income or gross sales requirement for a permit.

(iv) * * * To obtain or renew a commercial vessel permit for Spanish mackerel, at least 25 percent of the applicant's earned income, or at least $10,000, must have been derived from commercial fishing (i.e., harvest and first sale of fish) or from charter fishing during one of the 3 calendar years preceding the application.

* * * * *

(q) *Moratorium on commercial vessel permits for king mackerel.* This paragraph (q) is effective through October 15, 2005.

(1) NMFS will not accept applications for additional commercial vessel permits for king mackerel. Existing vessel permits may be renewed, are subject to the restrictions on transfer or change in paragraphs (q)(2) through (q)(5) of this section, and are subject to the requirement for timely renewal in paragraph (q)(6) of this section.

(2) An owner of a permitted vessel may transfer a commercial vessel permit for king mackerel to another vessel owned by the same entity.

(3) An owner whose percentage of earned income or gross sales qualified him/her for a commercial vessel permit for king mackerel may request that NMFS transfer that permit to the owner of another vessel, or to the new owner when he or she transfers ownership of the permitted vessel. NMFS may issue a commercial vessel permit for king mackerel to such owner of another vessel, or new owner. NMFS may renew the permit through April 15 following the first full calendar year after the permit is transferred, without the owner meeting the percentage of earned income or gross sales requirement of paragraph (a)(2)(iii) of this section. However, to further renew the commercial vessel permit, the owner of the other vessel, or new owner, must meet the earned income or gross sales requirement not later than the first full calendar year after the permit is transferred.

(4) If a permit is based on an operator's earned income and, thus, is valid only when that person is the operator of the vessel, the owner of the vessel may request that NMFS transfer the permit to the income-qualifying operator if such operator becomes an owner of a vessel.

(5) If a permit is based on an operator's earned income and, thus, is valid only when that person is the operator of the vessel, the owner of the vessel may request that NMFS remove the operator qualification on the permit by returning the original permit to the RA with an application for the changed permit. NMFS may renew the permit without such qualification through April 15 following the first full calendar year after NMFS removes the operator qualification, without the owner meeting the earned income or gross sales requirement of paragraph (a)(2)(iii) of this section. However, to further renew the commercial vessel permit, the owner must meet the earned income or gross sales requirement not later than the first full calendar year after NMFS removes the operator qualification.

(6) NMFS will not reissue a commercial vessel permit for king mackerel if the permit is revoked or if the RA does not receive an application for renewal within 1 year of the permit's expiration date.

§§ 622.2, 622.6, 622.41, 622.44 [Amended]

3. In addition to the amendments set forth above, in 50 CFR part 622, remove the word ''Dade'' and add, in its place, the words ''Miami-Dade'' in the following places:

(a) Section 622.2, in paragraph (2) of the definition of ''Migratory group'';

(b) Section 622.6(b)(2);

(c) Section 622.41(c)(3)(ii)(B); and

(d) Section 622.44(a)(1)(iii).

[FR Doc. 00–13572 Filed 5–31–00; 8:45 am]

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