

regulatory action on small business and other small entities and to minimize any significant economic impact. The term "small entities" comprises small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. Accordingly, DOT policy requires an analysis of the impact of all regulations on small entities, and mandates that agencies strive to lessen any adverse effects on these businesses.

PHMSA has conducted an economic analysis of the impact of this final rule on small entities and certifies that a Regulatory Flexibility Analysis is not necessary because the rule will not have a significant economic impact on a substantial number of small entities subject to the requirements of this final rule. We assume that all of the 1,490 motor carriers identified by this final rule are small entities. However, the direct costs of this rule that small entities may incur are only expected to be minimal. They consist of the costs of lost productivity from foregoing texting while on-duty and fuel usage costs for pulling to the side of the road to idle the truck or passenger-carrying vehicle to send or receive a text message. The majority of motor carriers are small entities. Therefore, PHMSA will use the total cost of this final rule (\$5,227) applied to the number of small entities (1,490) as a worse case evaluation which would average \$3.51 annually per carrier.

#### F. Executive Order 13272 and DOT Regulatory Policies and Procedures

This final rule has been developed in accordance with Executive Order 13272 ("Proper Consideration of Small Entities in Agency Rulemaking") and DOT's procedures and policies to promote compliance with the Regulatory Flexibility Act to ensure that potential impacts of rulemakings on small entities are properly considered.

#### G. Paperwork Reduction Act

This rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

#### H. Regulation Identifier Number (RIN)

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross-

reference this action with the Unified Agenda.

#### I. Unfunded Mandates Reform Act of 1995

This final rule does not impose unfunded mandates, under the Unfunded Mandates Reform Act of 1995. It does not result in costs of \$140.8 million or more to either State, local, or Tribal governments, in the aggregate, or to the private sector, and is the least burdensome alternative that achieves the objective of the rule.

#### J. Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477 through 19478) or you may visit <http://www.dot.gov>. This rule is not a privacy-sensitive rulemaking because the rule will not require any collection, maintenance, or dissemination of Personally Identifiable Information (PII) from or about members of the public.

#### K. National Environmental Policy Act

The National Environmental Policy Act of 1969 (NEPA) requires Federal agencies to consider the consequences of major Federal actions and that they prepare a detailed statement on actions significantly affecting the quality of the human environment. PHMSA's assessment did not reveal any significant positive or negative impacts on the environment expected to result from the rulemaking action. There could be minor impacts on emissions, hazardous materials spills, solid waste, socioeconomic, and public health and safety. In the NPRM PHMSA invited interested parties to comment on the potential environmental impacts of regulations applicable to texting while driving. PHMSA did not receive any comments in response to that request.

#### List of Subjects in 49 CFR part 177

Hazardous materials transportation, Motor carriers, Radioactive materials, Reporting and recordkeeping requirements.

In consideration of the foregoing, 49 CFR Chapter I is amended as follows:

#### PART 177—CARRIAGE BY PUBLIC HIGHWAY

■ 1. The authority citation for part 177 continues to read as follows:

**Authority:** 49 U.S.C. 5101–5128; 49 CFR 1.53.

- 2. Section 177.804 is amended by:
  - a. Designating the existing text as paragraph (a);
  - b. Adding a heading to the newly designated paragraph (a); and
  - c. Adding a new paragraph (b) to read as follows:

#### § 177.804 Compliance with Federal Motor Carrier Safety Regulations.

- (a) *General.* \* \* \*
- (b) *Prohibition against texting.* In accordance with § 392.80 of the FMCSRs a person transporting a quantity of hazardous materials requiring placarding under 49 CFR part 172 or any quantity of a material listed as a select agent or toxin in 42 CFR part 73 may not engage in, allow, or require texting while driving.

Issued in Washington, DC, on February 17, 2011, under authority delegated in 49 CFR part 106.

**Cynthia L. Quarterman,**  
*Administrator, Pipeline and Hazardous Materials Safety Administration.*

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**BILLING CODE 4910–60–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 622

[Docket No. 001005281–0369–02]

RIN 0648–XA245

#### 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:** Temporary rule; closure.

**SUMMARY:** NMFS closes the commercial sector for king mackerel in the Florida east coast subzone. This closure is necessary to protect the Gulf king mackerel resource.

**DATES:** The closure is effective 12:01 a.m., local time, February 26, 2011, until 12:01 a.m., local time, April 1, 2011.

**FOR FURTHER INFORMATION CONTACT:** Susan Gerhart, telephone: 727–824–5305, fax: 727–824–5308, e-mail: [Susan.Gerhart@noaa.gov](mailto:Susan.Gerhart@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The fishery for coastal migratory pelagic fish

(king mackerel, Spanish mackerel, cero, cobia, little tunny, and, in the Gulf of Mexico only, dolphin and 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. The quota implemented for the Florida east coast subzone is 1,040,625 lb (472,020 kg) (50 CFR 622.42(c)(1)(i)(A)(1)).

Under 50 CFR 622.43(a)(3), NMFS is required to close any segment of the king mackerel commercial sector when its quota has been reached, by filing a notification with the Office of the Federal Register. NMFS has determined that the commercial quota of 1,040,625 lb (472,000 kg) for Gulf group king mackerel in the Florida east coast subzone will be reached on February 26, 2011. Accordingly, the commercial sector for king mackerel in the Florida east coast subzone is closed at 12:01 a.m., local time, February 26, 2011, until 12:01 a.m., local time, April 1, 2011.

From November 1 through March 31 the Florida east coast subzone of the Gulf group king mackerel is that part of the eastern zone north of 25°20.4' N. lat. (a line directly east from the Miami-Dade/Monroe County, FL, boundary) to 29°25' N. lat. (a line directly east from the Flagler/Volusia County, FL, boundary). Beginning April 1, the boundary between Atlantic and Gulf groups of king mackerel shifts south and west to the Monroe/Collier County boundary on the west coast of Florida. From April 1 through October 31, king mackerel harvested along the east coast of Florida, including all of Monroe County, are considered to be Atlantic group king mackerel.

#### Classification

This action responds to the best available information recently obtained from the fisheries. The Assistant Administrator for Fisheries, NOAA

(AA), finds that the need to immediately implement this action to close the Florida east coast subzone to commercial king mackerel fishing constitutes good cause to waive the requirements 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 implementing the quota and the associated requirement for closure of the commercial harvest when the quota is reached or projected to be reached has already 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 on this action would be contrary to the public interest because any delay in the closure of the commercial harvest could result in the commercial quota being exceeded. There is a need to immediately implement this action to protect the king mackerel resource because the capacity of the fishing fleet allows for rapid harvest of the quota. Prior notice and opportunity for public comment would 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: February 23, 2011.

**Margo Schulze-Haugen,**

*Acting Director, Office Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 2011-4365 Filed 2-23-11; 4:15 pm]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 0910131362-0087-02]

RIN 0648-XA237

### Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 610 in the Gulf of Alaska

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

**ACTION:** Temporary rule; modification of a closure.

**SUMMARY:** NMFS is opening directed fishing for pollock in Statistical Area 610 of the Gulf of Alaska (GOA). This action is necessary to fully use the A season allowance of the 2011 total allowable catch (TAC) of pollock in Statistical Area 610 of the GOA.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), February 27, 2011, through 1200 hrs, A.l.t., March 10, 2011. Comments must be received at the following address no later than 4:30 p.m., A.l.t., March 10, 2011.

**ADDRESSES:** Send comments to James W. Balsiger, Regional Administrator, Alaska Region, NMFS, Attn: Ellen Sebastian. You may submit comments, identified by RIN 0648-XA237, by any one of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal eRulemaking Portal <http://www.regulations.gov>.
- *Mail:* P.O. Box 21668, Juneau, AK 99802.

- *Fax:* (907) 586-7557.
- *Hand delivery to the Federal Building:* 709 West 9th Street, Room 420A, Juneau, AK.

*Instructions:* All comments received are a part of the public record. Comments will generally be posted without change. All Personal Identifying Information (for example, name, address, *etc.*) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

NMFS will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

**FOR FURTHER INFORMATION CONTACT:** Josh Keaton, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

NMFS closed directed fishing for pollock in Statistical Area 610 of the GOA under § 679.20(d)(1)(iii) on January 23, 2011 (76 FR 4082, January 24, 2011).