

EPA APPROVED ALABAMA REGULATIONS FOR ALABAMA—Continued

State citation	Title subject	Adoption date	EPA approval date	Federal Register notice
Chapter No. 335–3–17, Section 335–3–1–.02.	General Conformity .....	March 27, 1998 .....	May 11, 2000 .....	65 FR 30362
*	*	*	*	*

3. Section 52.50 is amended by adding a new entry at the end of the table in paragraph (e) to read as follows:

**§ 52.50 Identification of plan.**

\* \* \* \* \*

(e) EPA-approved Alabama non-regulatory provisions.

EPA APPROVED ALABAMA NON-REGULATORY PROVISIONS

Provision	State effective date	EPA approval date	FEDERAL REGISTER notice	Explanation
*	*	*	*	*
Alabama Interagency Transportation Con- formity Memorandum of Agreement.	January 20, 2000 .....	May 11, 2000 .....	65 FR 30362.	

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 622**

[Docket No. 991112303–0069–02; I.D. 100499A]

RIN 0648–AM01

**Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Catch Specifications for Gulf Group King and Spanish Mackerel**

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

**ACTION:** Final rule.

**SUMMARY:** In accordance with the framework procedure for adjusting management measures of the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (FMP), NMFS implements increases in the total allowable catch (TAC) and the bag limit for Gulf group Spanish mackerel and establishes a new fishing season for the Gulf group king mackerel gillnet fishery. The intended effects of this rule are to enhance the economic and social benefits from the Gulf group king and Spanish mackerel fisheries while maintaining healthy stocks.

**DATES:** This final rule is effective June 12, 2000.

**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 regulated under the FMP. The FMP was prepared jointly by the Gulf of Mexico and South Atlantic Fishery Management Councils and was approved by NMFS and implemented by regulations at 50 CFR part 622.

In accordance with the framework procedures of the FMP, the Gulf of Mexico Fishery Management Council (Council) recommended, and NMFS published, a proposed rule (64 FR 71388, December 21, 1999) to implement increases in the total allowable catch (TAC) and the bag limit for Gulf group Spanish mackerel and a new fishing season for the Gulf group king mackerel gillnet fishery. The proposed rule described the need and rationale for these measures, which are not repeated here.

**Comments and Responses**

Three individuals submitted comments; several of the points raised by the commenters were the same. The relevant points and NMFS’ responses are presented here:

*Comment 1:* Two commenters opposed the delay in the opening date of the gillnet season from November 1 to the Tuesday after the Martin Luther King, Jr., holiday in January. One commenter believed that this action would shorten the season substantially and create an economic hardship on the

fishery. The commenter suggested that a viable alternative would be to retain the November 1 opening date and close all weekends and holidays. The second commenter believed that altering the opening date for the gillnet fishery was discriminatory against the hook-and-line fishery and that the action was being taken without any evaluations of the sociological impacts on other commercial and charter king mackerel fishermen.

*Response:* NMFS can only approve, partially approve, or disapprove actions submitted by the Councils and cannot substitute alternative actions for those submitted by the Councils. Therefore, NMFS did not consider retaining the opening date of November 1 for the gillnet fishery, with all weekends and holidays closed. Nevertheless, the intent of the change in the fishing season is to avoid quota overruns due to the 3-day holiday. The change in the opening date of the gillnet season should have little overall impact on the fishery regarding its ability to meet the gillnet quota. The fishery normally does not begin to harvest fish until after January 1 and has the capacity to meet its quota in a week’s time. Since 1995, all landings occurred in January or early February, except in 1998 when some landings were recorded in November and December. During this timeframe, the fishery has met its quota in 7 to 31 days.

Delaying the opening date for the gillnet sector of the fishery should not impact the other fishing sectors. The gillnet fishery has a dedicated quota that historically has been harvested during the month of January and February, with as much as 50 to 100 percent of

that quota being harvested within only 3 to 4 days. Fishing effort is unlikely to be concentrated into a shorter timeframe under the new opening date than has been demonstrated in the past, nor would this impinge on the ability of other sectors to harvest king mackerel under their allocations or quotas. On the other hand, delaying the opening date and closing weekends to fishing should enhance NMFS' ability to close the fishery when the quota is reached without allowing overruns to occur during time periods when a closure notice cannot be published in the **Federal Register**.

*Comment 2:* One commenter requested NMFS to reconsider its decision to continue the zero-fish bag limit for Gulf group king mackerel for the captains and crews of for-hire vessels. The commenter stated that there was no evidence to substantiate that a two-fish captain and crew bag limit contributed to overruns of the recreational allocation. The commenter pointed out that, during the 1997/1998 fishing year, the recreational allocation was exceeded by only 3 percent; in 1998/1999, the recreational allocation was not met; and based on preliminary information available from the Marine Recreational Fishing Statistics Survey (MRFSS) for king mackerel catches in the Gulf of Mexico, it appeared that the recreational allocation would not be met for the 1999/2000 fishing year.

*Response:* In establishing a zero-fish bag limit for captains and crews of for-hire vessels (64 FR 45457, August 20, 1999) NMFS stated that the catch attributable to this segment of the fishery contributed to overruns of the recreational allocation, led to bag limit enforcement problems, and adversely impacted fishing mortality estimates when those recreationally caught fish were subsequently sold and then counted against the commercial quota. NMFS considered the Council's proposed measure for a two-fish bag limit for captains and crew to be contrary to the goals and objectives of the FMP and the requirements of the Magnuson-Stevens Act to maintain and rebuild overfished stocks. Therefore, NMFS disapproved the measure and did not propose a rule to reinstate a two-fish bag limit for captains and crew. Further rationale for this decision is contained in the proposed rule (64 FR 71388, December 21, 1999).

NMFS acknowledges that, during the 1997/1998 and 1998/1999 fishing years, the recreational catch was either under

or only slightly over the allocation. Nevertheless, since 1986, recreational catch has exceeded the allocation by an average of 37 percent, and the charterboat fishery accounts for more than half of the total recreational landings of Gulf group king mackerel. NMFS estimates that a 10- to 12-percent reduction in recreational catch of Gulf group king mackerel could be achieved from the zero-fish bag limit for the captains and crews of for-hire vessels.

Catches of Gulf group king mackerel cannot be directly calculated solely from MRFSS data for the Gulf of Mexico. During the period November 1 through March 31, Gulf group king mackerel is considered to extend northward along the Atlantic coast of Florida to the Flagler/Volusia County line. Large numbers of king mackerel are caught on the Atlantic coast during this time. Thus, any estimates of recreational catch based solely on Gulf of Mexico surveys will underestimate the total catch for Gulf group king mackerel.

#### Classification

This final rule has been determined to be significant for purposes of E.O. 12866.

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 rule would not have a significant economic impact on a substantial number of small entities. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not prepared.

This rule does not contain a collection-of-information requirement subject to the Paperwork Reduction Act.

#### List of Subjects in 50 CFR Part 622

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

Dated: May 5, 2000.

**Penelope D. Dalton,**

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

For the reasons set out in the preamble, 50 CFR part 622 is 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 § 622.34, paragraph (p) is added to read as follows:

#### **§ 622.34 Gulf EEZ seasonal and/or area closures.**

\* \* \* \* \*

(p) *Closures of the Gulf group king mackerel gillnet fishery.* The gillnet fishery for Gulf group king mackerel in or from the Gulf EEZ is closed each fishing year from July 1 until 6:00 a.m. on the day after the Martin Luther King Jr. Federal holiday. The gillnet fishery also is closed during all subsequent weekends and observed Federal holidays, except for the first weekend following the Martin Luther King Jr. holiday which will remain open to the gillnet fishery provided a notification of closure of that fishery has not been filed under § 622.43(a). Weekend closures are effective from 6:00 a.m. Saturday to 6:00 a.m. Monday. Holiday closures are effective from 6:00 a.m. on the observed Federal holiday to 6:00 a.m. the following day. All times are eastern standard time. During these closures, a person aboard a vessel using or possessing a gillnet with a stretched-mesh size of 4.75 inches (12.1 cm) or larger in the southern Florida west coast subzone may not fish for or possess Gulf group king mackerel.

3. In § 622.39, paragraph (c)(1)(iv) is revised to read as follows:

#### **§ 622.39 Bag and possession limits.**

\* \* \* \* \*

(c) \* \* \*

(1) \* \* \*

(iv) Gulf migratory group Spanish mackerel—15.

\* \* \* \* \*

4. In § 622.42, paragraph (c)(2)(i) is revised to read as follows:

#### **§ 622.42 Quotas.**

\* \* \* \* \*

(c) \* \* \*

(2) \* \* \*

(i) *Gulf migratory group.* The quota for the Gulf migratory group of Spanish mackerel is 5.187 million lb (2.353 million kg).

\* \* \* \* \*

5. In § 622.44, paragraph (a)(2)(ii)(A)(1) is revised to read as follows:

**§ 622.44 Commercial trip limits.**

\* \* \* \* \*

(a) \* \* \*

(2) \* \* \*

(ii) \* \* \*

(A) \* \* \*

(1) In the southern Florida west coast subzone, king mackerel in or from the

EEZ may be possessed on board or landed from a vessel for which a commercial permit with a gillnet endorsement has been issued, as required under § 622.4(a)(2)(ii), in amounts not exceeding 25,000 lb (11,340 kg) per day, provided the gillnet

fishery for Gulf group king mackerel is not closed under § 622.34(p) or § 622.43(a).

\* \* \* \* \*

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