

# Rules and Regulations

Federal Register

Vol. 78, No. 197

Thursday, October 10, 2013

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 622

[Docket No. 001005281–0369–02]

RIN 0648–XC902

#### Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; 2012–2013 Accountability Measure and Closure for Gulf King Mackerel in Northern Florida West Coast Subzone

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

**ACTION:** Temporary rule; closure.

**SUMMARY:** NMFS implements an accountability measure (AM) for commercial king mackerel in the northern Florida west coast subzone of the eastern zone of the Gulf of Mexico (Gulf) exclusive economic zone (EEZ) through this temporary final rule. NMFS has determined that the commercial annual catch limit (ACL) (equal to the commercial quota) for king mackerel in the northern Florida west coast subzone of the Gulf EEZ will have been reached by October 12, 2013. Therefore, NMFS closes the northern Florida west coast subzone to commercial king mackerel fishing in the EEZ at noon, local time, October 12, 2013, until 12:01 a.m., local time, on July 1, 2014. This closure is necessary to protect the Gulf king mackerel resource.

**DATES:** The closure is effective noon, local time, October 12, 2013, until 12:01 a.m., local time, on July 1, 2014.

**FOR FURTHER INFORMATION CONTACT:** Susan Gerhart, telephone: 727–824–5305, email: [susan.gerhart@noaa.gov](mailto:susan.gerhart@noaa.gov).

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

(king mackerel, Spanish mackerel, and cobia) 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.

On April 27, 2000, NMFS implemented the final rule (65 FR 16336, March 28, 2000) that divided the Gulf migratory group king mackerel's Florida west coast subzone of the Gulf eastern zone into northern and southern subzones, and established their separate quotas. The Florida west coast subzone is that part of the eastern zone located south and west of 25°20.4' N. lat. (a line directly east from the Miami-Dade/Monroe County, FL boundary) along the west coast of Florida to 87°31.1' W. long. (a line directly south from the Alabama/Florida boundary). The Florida west coast subzone is further divided into northern and southern subzones. The northern subzone is that part of the Florida west coast subzone that is between 26°19.8' N. lat. (a line directly west from the Lee/Collier County, FL boundary) and 87°31.1' W. long. (a line directly south from the Alabama/Florida boundary).

The commercial ACL (commercial quota) for the Gulf migratory group king mackerel in the northern Florida west coast subzone is 178,848 lb (81,124 kg) (50 CFR 622.384(b)(1)(i)(B)(2)), for the current fishing year, July 1, 2013, through June 30, 2014.

Because 75 percent of the northern Florida west coast subzone's quota had been harvested, NMFS published a temporary rule on September 26, 2013, to reduce the trip limit for the commercial sector of king mackerel in the northern Florida west coast subzone to 500 lb (227 kg) of king mackerel per day in or from the EEZ (78 FR 59287).

Regulations at 50 CFR 622.388(a)(1) and 50 CFR 622.384(e) require NMFS to close the commercial sector for Gulf migratory group king mackerel in the northern Florida west coast subzone when the ACL (quota) is reached, or is projected to be reached, by filing a notification to that effect with the Office of the Federal Register. Based on the

best scientific information available, NMFS has determined the commercial ACL (commercial quota) of 178,848 lb (81,124 kg) for Gulf migratory group king mackerel in the northern Florida west coast subzone will be reached by October 12, 2013. Accordingly, the northern Florida west coast subzone is closed effective noon, local time, October 12, 2013, through June 30, 2014, the end of the fishing year, to commercial fishing for Gulf migratory group king mackerel.

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 or retain 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 622.382(a)(1)(ii) and (a)(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 zone, 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

The Regional Administrator, Southeast Region, NMFS, has determined this temporary rule is necessary for the conservation and management of Gulf migratory group king mackerel and is consistent with the Magnuson-Stevens Act and other applicable laws.

This action is taken under 50 CFR 622.388(a)(1) and 50 CFR 622.384(e) and is exempt from review under Executive Order 12866.

These measures are exempt from the procedures of the Regulatory Flexibility Act because the temporary rule is issued

without opportunity for prior notice and comment.

This action responds to the best scientific information available. The Assistant Administrator for Fisheries, NOAA (AA), finds that the need to immediately implement this action to close the northern Florida west coast subzone of the Gulf eastern zone 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) because prior notice and opportunity for public comment is unnecessary and contrary to the public interest. Prior notice and public comment is unnecessary because the rule implementing the commercial ACL (commercial quota) and the associated requirement for closure of the commercial harvest when the ACL (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.

Additionally, allowing prior notice and opportunity for public comment is contrary to the public interest because of the 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).

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

Dated: October 7, 2013.

**Samuel D. Rauch III,**

*Deputy Assistant Administrator for Regulatory Programs, performing the functions and duties of the Assistant Administrator for Fisheries, National Marine Fisheries Service.*

[FR Doc. 2013-24436 Filed 10-7-13; 4:15 pm]

**BILLING CODE 3510-22-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 120918468-3111-02]

RIN 0648-XC919

#### Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 620 in the Gulf of Alaska

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

**ACTION:** Temporary rule; closure.

**SUMMARY:** NMFS is prohibiting directed fishing for pollock in Statistical Area 620 in the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the 2013 total allowable catch of pollock for Statistical Area 620 in the GOA.

**DATES:** Effective October 7, 2013, through 2400 hrs, A.l.t., December 31, 2013.

**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.

The 2013 total allowable catch (TAC) of pollock in Statistical Area 620 of the GOA is 51,444 metric tons (mt) as established by the final 2013 and 2014 harvest specifications for groundfish of the GOA (78 FR 13162, February 26, 2013). The D season apportionment of the Statistical Area 620 pollock TAC is 7,600 mt.

In accordance with § 679.20(a)(5)(iv)(B), the Administrator, Alaska Region, NMFS, (Regional Administrator) hereby reapportions 1,520 mt of the C season underharvest of pollock in Statistical Area 610 to the D season apportionment of the Statistical Area 620 pollock TAC. Therefore, the revised D season allowance of the pollock TAC in Statistical Area 620 is 9,120 mt (7,600 mt plus 1,520 mt) and the revised 2013 TAC in Statistical Area 620 is 52,964 mt (51,444 mt plus 1,520 mt).

In accordance with § 679.20(d)(1)(i), the Regional Administrator has

determined that the 2013 TAC of pollock in Statistical Area 620 of the GOA will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 52,700 mt and is setting aside the remaining 264 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for pollock in Statistical Area 620 of the GOA.

After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

#### Classification

This action responds to the best available information recently obtained from the fishery. The Acting 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) and § 679.25(c)(1)(ii) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of directed fishing for pollock in Statistical Area 620 of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of October 5, 2013.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

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

Dated: October 7, 2013.

**Samuel D. Rauch III,**

*Deputy Assistant Administrator for Regulatory Programs, performing the functions and duties of the Assistant Administrator for Fisheries, National Marine Fisheries Service.*

[FR Doc. 2013-24434 Filed 10-7-13; 4:15 pm]

**BILLING CODE 3510-22-P**