

with the HEU exclusively through the digital communications cable and not via a radio signal, it does not need to perform the function of venting the brake pipe to atmospheric pressure to engage an emergency brake application. However, ECP–EOT devices do verify the integrity of the train line cable and provide a means of monitoring the brake pipe pressure and gradient, providing the basis for an automatic—rather than engineer commanded—response if the system is not adequately charged. In the case of ECP brakes, the brake pipe becomes a redundant—rather than primary—path for sending emergency brake application commands. Under certain communication break downs between the ECP–EOT device, the HEU, and any number of CCDs, the system will self-initiate an emergency brake application.

*Id.* Section 232.613 requires the ECP–EOT device to send a beacon every second from the rear unit of the train to the controlling locomotive. The EOT beacon works as a kind of fail-safe. It functions virtually identically to the radio signal of a conventional two-way EOT device with one important exception: if the EOT Beacon is lost for six seconds on a train operated in ECP brake mode, then the train goes into penalty brake application, which will brake all cars in the train simultaneously. In contrast, a two-way EOT device may lose communication for up to 16 minutes, 30 seconds, at which point the train speed must be reduced to 30 mph.

Based on these factors, PHMSA and FRA conclude that the ECP brake component of the final rule complies with the requirements of 49 U.S.C. 20141. AAR should be aware that HHFTUs operating in ECP brake mode must have an ECP–EOT or an appropriate alternative, such as an ECP-equipped locomotive, at the rear of the train. This requirement is consistent with FRA's ECP brake regulations at part 232, subpart G.

For the above reasons, AAR's appeal to eliminate the new ECP brake standard of the final rule is denied.

### III. Summary

PHMSA denies the appellants' (DGAC, ACC, AAR, AFPM, and Treaty Tribes) appeals on Scope of Rulemaking, Tribal Impacts and Consultation, Retrofit Timeline and Tank Car Reporting Requirements, Thermal Protection for Tank Cars, and Advanced Brake Signal Propagation Systems. We conclude we reasonably determined how to apply new regulations and provided the regulatory analysis to support those decisions. While we understand that shippers, carriers, and tank car manufacturers for Class 3 flammable liquids will face new

challenges in the wake of these regulations, we maintain that they are capable of complying with the final rule.

We also deny DGAC's appeal to eliminate or provide further guidance for the Sampling and Testing program. The sampling and testing program is reasonable, justified, necessary, and clear as written. Additionally, we disagree that a delayed compliance date of March 31, 2016 should be provided for implementation of the requirements in § 173.41 for shippers to implement changes for training and documentation.

With respect to Information Sharing/Notification, PHMSA announced in a May 28, 2015, notice that it would extend the Emergency Order applicable to the topic of Information Sharing/Notification indefinitely, while it considered options for codifying the disclosure requirement permanently. Furthermore, on July 22, 2015, FRA issued a public letter instructing railroads transporting crude oil that they must continue to notify SERCs of the expected movement of Bakken crude oil trains through individual States. While the treaty tribes and other stakeholders will have the opportunity to comment on these future regulatory proposals in the course of that rulemaking proceeding, PHMSA will continue to seek opportunities to reach out to the tribes and consultation from tribal leaders.

Issued in Washington, DC on November 5, 2015.

**Marie Therese Dominguez,**  
*Administrator, Pipeline and Hazardous  
Materials Safety Administration.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 622

[Docket No. 101206604–1758–02]

RIN 0648–XE290

#### Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; 2015–2016 Accountability Measure and Closure for King Mackerel in Western Zone of the Gulf of Mexico

**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 western zone of the Gulf of Mexico (Gulf) exclusive economic zone (EEZ) through this temporary final rule. NMFS has determined that the commercial quota for king mackerel in the western zone of the Gulf EEZ will be reached by November 17, 2015. Therefore, NMFS closes the western zone of the Gulf EEZ to commercial king mackerel fishing on November 17, 2015. This closure is necessary to protect the Gulf king mackerel resource.

**DATES:** The closure is effective at noon, local time, November 17, 2015, until 12:01 a.m., local time, on July 1, 2016.

**FOR FURTHER INFORMATION CONTACT:** Susan Gerhart, NMFS Southeast Regional Office, 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 by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

The commercial quota for the Gulf migratory group king mackerel in the western zone is 1,071,360 lb (485,961 kg) (76 FR 82058, December 29, 2011), for the current fishing year, July 1, 2015, through June 30, 2016.

Regulations at 50 CFR 622.388(a)(1) require NMFS to close the commercial sector for Gulf migratory group king mackerel in the western zone when the 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 quota of 1,071,360 lb (485,961 kg) for Gulf migratory group king mackerel in the western zone will be reached by November 17, 2015. Accordingly, the western zone is closed to commercial fishing for Gulf migratory group king mackerel effective at noon, local time, November 17, 2015, through June 30, 2016, the end of the current fishing year. The western zone of Gulf migratory group king mackerel is that part of the EEZ between a line extending east from the border of the United States and Mexico and 87°31.1' W. longitude,

which is a line directly south from the state boundary of Alabama and Florida.

Except for a person aboard a charter vessel or headboat, during the closure no person aboard a vessel that has been issued a commercial permit for king mackerel may fish for or retain Gulf migratory group king mackerel in the EEZ in the closed zone (50 CFR 622.384(e)(1)). 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 zone 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 (50 CFR 622.384(e)(2)). 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 king mackerel from the closed zone that were harvested, landed ashore, and sold prior to the closure and were held in cold storage by a dealer or processor (50 CFR 622.384(e)(3)).

#### 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 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 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 procedures are unnecessary and contrary to the public interest. Such procedures are unnecessary because the rule implementing the commercial quota and the associated requirement for closure of the commercial harvest when the quota

is reached or is projected to be reached has already been subject to notice and public 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 stock, 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 could 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: November 13, 2015.

**Emily H. Menashes,**

*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 635

**RIN 0648-XE316**

#### Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Fisheries

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

**ACTION:** Notification that Northeast Distant gear restricted area (NED) quota is filled.

**SUMMARY:** NMFS announces that the 25-mt quota available for Atlantic bluefin tuna bycatch (including landings and dead discards) by the Longline category in the Northeast Distant gear restricted area (NED) was filled on November 12, 2015. NMFS reminds vessels fishing in the NED that they now must account for any bluefin bycatch retained or discarded dead using IBQ allocation available to the vessel and that any quota debt remaining at the end of 2015 will carry over to 2016.

**DATES:** Effective November 18, 2015.

**FOR FURTHER INFORMATION CONTACT:** Tom Warren or Brad McHale, 978-281-9260.

**SUPPLEMENTARY INFORMATION:** Regulations implemented under the authority of the Atlantic Tunas Convention Act (ATCA; 16 U.S.C. 971 *et seq.*) and the Magnuson-Stevens Fishery

Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. 1801 *et seq.*) governing the harvest of bluefin tuna by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 635. Section 635.27 subdivides the U.S. bluefin tuna quota recommended by the International Commission for the Conservation of Atlantic Tunas (ICCAT) among the various domestic fishing categories per the allocations established in the 2006 Consolidated Highly Migratory Species Fishery Management Plan (2006 Consolidated HMS FMP) (71 FR 58058, October 2, 2006), as amended by Amendment 7 to the 2006 Consolidated HMS FMP (Amendment 7) (79 FR 71510, December 2, 2014).

The U.S. bluefin tuna annual quota from the International Commission for the Conservation of Atlantic Tunas (ICCAT) includes, as in previous years, a 25-mt set-aside for bluefin tuna bycatch related to longline fisheries operating in the vicinity of the ICCAT management area boundary. See ICCAT Recommendation 14-05; and 80 FR 52198, (August 28, 2015) (implementing the quota domestically). For management and monitoring purposes, NMFS implements this set-aside in the NED gear restricted area as quota available to Atlantic Longline category permitted vessels. Longline is not a permitted gear for directed fishing on bluefin tuna; any catch must be incidental to fishing for other species. Accounting for this bycatch includes all catch (landings and dead discards). The NED is the Atlantic Ocean area bounded by straight lines connecting the following coordinates in the order stated: 35°00' N. lat., 60°00' W. long.; 55°00' N. lat., 60°00' W. long.; 55°00' N. lat., 20°00' W. long.; 35°00' N. lat., 20°00' W. long.; 35°00' N. lat., 60°00' W. long.

#### The IBQ Program and the Northeast Distant Area (NED)

Under Amendment 7 (79 FR 71510, December 2, 2014), new rules were implemented for Longline category vessels fishing in the NED. See 50 CFR 635.15(b)(8). Any bluefin tuna bycatch by permitted vessels fishing with pelagic longline gear in the NED counts toward the ICCAT-allocated separate NED quota (25 mt), until that quota has been filled. During that period, the bluefin tuna accounting requirements of the IBQ Program do not apply to those vessels. Once the NED quota is filled, Longline category permitted vessels may fish or continue to fish in the NED, but the permitted vessels must then abide by the applicable requirements of the IBQ program, which requires individual