

**ACTION:** Final rule.

**SUMMARY:** The Audio Division, at the request of Roy E. Henderson, allots FM Channel 274A at Evart, Michigan, as that community's first local service. In order to accommodate that allotment, the Audio Division also substitutes Channel 249A for vacant FM Channel 242A at Ludington, Michigan. Channel 274A can be allotted at Evart, Michigan, in compliance with the Commission's minimum distance separation requirements with a site restriction of 14.6 km (9.1 miles) north of Evart at the following reference coordinates: 44°01'43" North Latitude and 85°17'51" West Longitude. Channel 249A can be allotted at Ludington, Michigan, in compliance with the Commission's minimum distance separation requirements with a site restriction of 9.0 km (5.6 miles) north of Ludington at the following reference coordinates: 44°01'53" North Latitude and 86°24'57" West Longitude.

**DATES:** Effective April 13, 2009.

**ADDRESSES:** Secretary, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Deborah Dupont, Media Bureau, (202) 418-2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's *Report and Order*, MB Docket No. 08-26, adopted February 25, 2009, and released February 27, 2009. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554. The complete text of this decision also may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY-B402, Washington, DC 20554, (800) 378-3160, or via the company's Web site, <http://www.bcpweb.com>.

This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104-13. In addition, therefore, it does not contain any proposed information collection burden "for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, see 44 U.S.C. 3506(c)(4). The Commission will send a copy of this *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A).

## List of Subjects in 47 CFR Part 73

- Radio, Radio broadcasting.
- As stated in the preamble, the Federal Communications Commission amends 47 CFR part 73 as follows:

## PART 73—RADIO BROADCAST SERVICES

- 1. The authority citation for part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334, 336.

### § 73.202 [Amended]

- 2. Section 73.202(b), the Table of FM Allotments under Michigan, is amended by adding Evart, Channel 274A, by removing Channel 242A and by adding Channel 249A at Ludington.

Federal Communications Commission.

**John A. Karousos,**

*Assistant Chief, Audio Division, Media Bureau.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 622

[Docket No. 001005281-0369-02]

RIN 0648-XL91

### 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), Department of Commerce.

**ACTION:** Temporary rule; closure.

**SUMMARY:** NMFS closes the commercial fishery for king mackerel in the exclusive economic zone (EEZ) in the western zone of the Gulf of Mexico. This closure is necessary to protect the Gulf king mackerel resource.

**DATES:** The closure is effective noon, local time, March 27, 2009, through June 30, 2009.

**FOR FURTHER INFORMATION CONTACT:** Susan Gerhart, 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.

The commercial fishery for the Gulf of Mexico migratory group of king mackerel in the western zone is managed under a commercial quota of 1.01 million lb (0.46 million kg) (66 FR 17368, March 30, 2001) for the current fishing year, July 1, 2008, through June 30, 2009.

Under 50 CFR 622.43(a), NMFS is required to close any segment of the king mackerel commercial fishery when its quota has been reached, or is projected to be reached, by filing a notification at the Office of the **Federal Register**. NMFS has determined the commercial quota of 1.01 million lb (0.46 million kg) for Gulf group king mackerel in the western zone will be reached by March 27, 2009.

Accordingly, the commercial fishery for Gulf group king mackerel in the western zone is closed effective noon, local time, March 27, 2009, through June 30, 2009, the end of the fishing year. The boundary between the eastern and western zones is 87°31'06" W. long., which is a line directly south from the Alabama/Florida boundary.

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 622.39(c)(1)(ii) and (c)(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 zones or subzones taken in the EEZ, 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

This action responds to the best available information recently obtained from the fishery. The 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) 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 itself 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 is contrary to the public interest because of the need to immediately implement this action to protect the fishery since 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: March 20, 2009.

**Emily H. Menashes,**

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