

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary, Office of the Secretary.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 622

[Docket No. 160426363-7275-02]

RIN 0648-XF735

#### Coastal Migratory Pelagic Resources of the Gulf of Mexico and Atlantic Region; 2017-2018 Commercial Accountability Measure and Closure for King Mackerel in the Gulf of Mexico Western Zone

**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 rule. NMFS has determined that the commercial quota for king mackerel in the western zone of the Gulf EEZ will be reached by October 7, 2017. Therefore, NMFS closes the western zone of the Gulf EEZ to commercial king mackerel fishing on October 7, 2017. This closure is necessary to protect the Gulf king mackerel resource.

**DATES:** The closure is effective at noon, local time, October 7, 2017, until 12:01 a.m., local time, on July 1, 2018.

**FOR FURTHER INFORMATION CONTACT:** Kelli O'Donnell, NMFS Southeast Regional Office, telephone: 727-824-5305, email: [kelli.odonnell@noaa.gov](mailto:kelli.odonnell@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The fishery for coastal migratory pelagic fish includes king mackerel, Spanish mackerel, and cobia, and is managed under the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and Atlantic Region (FMP). The FMP was prepared by the Gulf of Mexico and South Atlantic Fishery Management 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. All weights for Gulf king mackerel below apply as either round or gutted weight.

On April 11, 2017, NMFS published a final rule to implement Amendment 26 to the FMP in the **Federal Register** (82 FR 17387). That final rule adjusted the management boundaries, zones, and annual catch limits for Gulf migratory group king mackerel (Gulf king mackerel) (82 FR 21314, May 8, 2017). The commercial quota for the Gulf king mackerel in the Gulf western zone is 1,136,000 lb (515,281 kg) for the current fishing year, July 1, 2017, through June 30, 2018 (50 CFR 622.384(b)(1)(i)).

The western zone of Gulf king mackerel is located in the EEZ between a line extending east from the border of the United States and Mexico, and 87°31.1' W. long., which is a line extending south from the state boundary of Alabama and Florida. The western zone includes the EEZ off Texas, Louisiana, Mississippi, and Alabama.

Regulations at 50 CFR 622.388(a)(1)(i) require NMFS to close the commercial sector for Gulf king mackerel in the western zone when the commercial quota is reached, or is projected to be reached, by filing a notification to that effect with the Office of the Federal Register. NMFS has determined the commercial quota of 1,136,000 lb (515,281 kg) for Gulf king mackerel in the western zone will be reached by October 7, 2017. Accordingly, the western zone is closed to commercial fishing for Gulf king mackerel effective at noon, local time, October 7, 2017, through June 30, 2018, the end of the current fishing year.

During the closure, a person on board a vessel that has been issued a valid Federal commercial or charter vessel/headboat permit for coastal migratory pelagic fish may continue to retain the king mackerel in the western zone under the recreational bag and possession limits specified in 50 CFR 622.382(a)(1)(ii) and (a)(2), as long as the recreational sector for Gulf king mackerel in the western zone is open (50 CFR 622.384(e)(1)).

Also 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)(2)).

#### Classification

The Regional Administrator for the NMFS Southeast Region has determined this temporary rule is necessary for the conservation and management of Gulf king mackerel and is consistent with the

Magnuson-Stevens Act and other applicable laws.

This action is taken under 50 CFR 622.384(e) and 622.388(a)(1)(i), 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 NOAA Fisheries (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 AM 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 commercial quota. Prior notice and opportunity for public comment would require time and could potentially result in a harvest well in excess of the established commercial 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 5, 2017.

**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 679

[Docket No. 161020985-7181-02]

RIN 0648-XF732

#### Fisheries of the Exclusive Economic Zone Off Alaska; Reallocation of Pacific Cod in the Bering Sea and Aleutian Islands Management Area

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

**ACTION:** Temporary rule; reallocation.

**SUMMARY:** NMFS is reallocating the projected unused amount of Pacific cod from catcher vessels equal to or greater than 60 feet (18.3 meters) length overall (LOA) using pot gear to catcher/processors using pot gear and catcher vessels less than 60 feet (18.3 meters) LOA using hook-and-line or pot gear in the Bering Sea and Aleutian Islands management area. This action is necessary to allow the 2017 total allowable catch of Pacific cod to be harvested.

**DATES:** Effective October 6, 2017, through 2400 hours, Alaska local time (A.l.t.), December 31, 2017.

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

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the Bering Sea and Aleutian Islands (BSAI) according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (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 2017 Pacific cod total allowable catch (TAC) specified for catcher vessels greater than or equal to 60 feet LOA using pot gear in the BSAI is 17,889 metric tons (mt) as established by the final 2017 and 2018 harvest specifications for groundfish in the BSAI (82 FR 11826, February 27, 2017).

The Administrator, Alaska Region, NMFS, (Regional Administrator) has determined that catcher vessels greater than or equal to 60 feet LOA using pot gear will not be able to harvest 2,500 mt of the remaining 2017 Pacific cod TAC allocated to those vessels under § 679.20(a)(7)(ii)(A)(5). Therefore, in accordance with § 679.20(a)(7)(iii), taking into account the capabilities of the sectors to harvest reallocated amounts of Pacific cod, and following the hierarchies set forth in § 679.20(a)(7)(iii)(A) and § 679.20(a)(7)(iii)(B), NMFS reallocates 1,000 mt of Pacific cod to C/Ps using pot gear and 1,500 mt to catcher vessels less than 60 feet (18.3 m) LOA using hook-and-line or pot gear.

The harvest specifications for Pacific cod included in the final 2017 harvest specifications for groundfish in the BSAI (82 FR 11826, February 27, 2017) and two inseason adjustments (82 FR 8905, February 1, 2017 and 82 FR 41899, September 5, 2017) are revised as follows: 15,389 mt for catcher vessels greater than or equal to 60 feet (18.3 m) LOA using pot gear, 4,194 mt for C/Ps using pot gear, and 9,071 mt for catcher vessels less than 60 feet (18.3 m) LOA using hook-and-line or pot gear.

#### 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 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 reallocation of Pacific cod specified from catcher vessels greater than or equal to 60 feet (18.3 m) LOA using pot gear to C/Ps using pot gear and catcher vessels less than 60 feet (18.3 m) LOA using hook-and-line or pot gear in the BSAI management area. Since these fisheries are currently open, it is important to immediately inform the industry as to the revised allocations. Immediate notification is necessary to allow for the orderly conduct and efficient operation of this fishery, to allow the industry to plan for the fishing season, and to avoid potential disruption to the fishing fleet as well as processors. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of September 28, 2017.

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 6, 2017.

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

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