we agree with NCTA that these statements could be interpreted ''to conflict with the *Third Report and Order's* plain directives and require procedures not mandated by the Commission.'' In particular, we note that the *Third Report and Order* states that ''[i]f a franchising authority refuses to modify any provision of a franchise agreement that is inconsistent with this Order, that provision is subject to preemption under section 636(c).'' We also note that the *Third Report and Order* ''encourage[s] the parties to negotiate franchise modifications within a reasonable time,'' and ''find[s] that 120 days should be, in most cases, a reasonable time for the adoption of franchise modifications.'' Contrary to these statements in the *Third Report and Order,* the statements that NCTA is seeking to excise from the *Stay Denial Order* could be construed as authorizing local franchising authorities (LFAs) to enforce unlawful franchise provisions unless and until a cable operator has proven to a court that they are unlawful.

3. We disagree with the National Association of Telecommunications Officers and Advisors (NATOA) that removing the relevant statements from paragraph 21 of the *Stay Denial Order* undermines our reasons for denying the stay petition. That argument ignores our two primary reasons for finding that LFAs will not suffer irreparable harm, absent a stay. First, we concluded in the *Stay Denial Order* that the injury claimed by LFAs (municipalities' loss of critical facilities and services) is speculative. We determined that localities can maintain access to critical facilities and services by adjusting revenues and expenses in response to changes in franchise fee revenue streams—for example, LFAs can maintain critical facilities and services ''either by prioritizing some in-kind contributions over others or by prioritizing in-kind contributions over the fees they would otherwise recover.'' [5] Second, we concluded that the harm alleged by LFAs (loss of free services) was an economic loss, which under well-established case law, does not, in and of itself, constitute irreparable harm. These grounds alone were sufficient for denying the administrative stay request.

4. NATOA claims that budget amendments and procurement processes to authorize payment for services previously furnished pursuant to a cable franchise are often lengthy, and that LFAs ''cannot . . . start the process without knowing what value a cable operator will assert for non-monetary franchise obligations that [would be] offset against franchise fee payments.'' [6] However, NATOA provides no evidence that any cable operator would abruptly cease services or take other unilateral action during the pendency of the appeal that would adversely affect municipalities, or create immediate or irreparable harm. Instead, as we explained in the *Stay Denial Order,* ''the *Order* encouraged LFAs, in response to a request from a cable operator, to negotiate franchise terms that conform to the *Order* in a reasonable amount of time . . . Thus, for example, an LFA is not required to assess the costs of in-kind contributions that it currently receives from a cable operator (*e.g.,* free cable service) against the franchise fee until the cable operator asks the LFA to amend the terms of its franchise.'' Accordingly, consistent with the terms of this order, we grant NCTA's petition.

5. We therefore conclude that the following two sentences in paragraph 21 of the *Stay Denial Order* misinterpret the *Order:* ''The rules in the [*Third Report and Order*] did not supersede provisions in existing franchise agreements on their effective date'' and ''[i]f negotiations fail, the terms in the franchise remain in effect unless and until a cable operator challenges those terms and proves that the terms violate the [*Third Report and Order's*] requirements.'' The same is true of the sentence in paragraph 21 of the *Stay Denial Order* that reads: ''At that point, the LFA and the cable operator have 120 days to renegotiate the franchise agreement.'' Instead, we find, in accordance with the *Third Report and Order,* that the LFA and the cable operator have a reasonable period of time to renegotiate the franchise agreement, which in most cases is 120 days. If negotiations fail, the cable operator and the LFA can continue to rely on the processes and remedies that may be contained in their franchise agreement or that are otherwise available.[7]

6. Accordingly, it is ordered that, pursuant to the authority contained in sections 4(i), 4(j), 303(r), and 405 of the Communications Act of 1934, as–amended, 47 U.S.C. 154(i)–(j), 303(r), and 405 and the authority delegated in §§ 0.61, 0.283, and 1.106 of the Commission's rules, 47 CFR 0.61, 0.283, and 1.106, this *Order* in MB Docket No. 05–311 is adopted. It is further ordered that the Petition for Clarification of Order Denying Motion for Stay pending judicial review of the *Third Report and Order* in this proceeding, filed by NCTA, is granted to the extent indicated above. It is further ordered that this *Order* shall be effective upon its release.

Federal Communications Commission.

Thomas Horan,

Media Bureau.

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[5] As NCTA notes, ''revenues would be recoverable in the event that the *Third Report and Order* is ultimately overturned on appeal, further undermining the notion that such losses could constitute irreparable harm.''

[6] NCTA asserts that this argument is baseless and states that ''[a]ll NCTA seeks in its Petition is what the *Third Report and Order* already provided: Clarification that parties should negotiate timely and in good faith to reach mutually agreeable franchise terms that comply with the Cable Act and rulings set forth in the Order.''

[7] For example, the cable operator and the LFA can take the dispute to court or, in the case of an interpretive dispute regarding the scope of the rules adopted in the *Third Report and Order,* request a declaratory ruling from the Commission.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 160426363–7275–02]

RTID 0648–XS025

Coastal Migratory Pelagic Resources of the Gulf of Mexico and Atlantic Region; 2019–2020 Commercial Hook-and-Line Closure for King Mackerel in the Gulf of Mexico Southern 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) to close the hook-and-line component of the commercial sector for king mackerel in the Gulf of Mexico (Gulf) southern zone. This closure is necessary to protect the Gulf king mackerel resource.

DATES: This temporary rule is effective from 12:01 a.m. local time on March 4, 2020, through June 30, 2020.

FOR FURTHER INFORMATION CONTACT: Kelli O'Donnell, NMFS Southeast Regional Office, telephone: 727–824–5305, email: *kelli.odonnell@noaa.gov.*

SUPPLEMENTARY INFORMATION: The fishery for coastal migratory pelagic fish in the Gulf 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 migratory group king mackerel (Gulf king mackerel) apply as either round or gutted weight.

The commercial sector for Gulf king mackerel is divided into western, northern, and southern zones, which have separate commercial quotas. The southern zone for Gulf king mackerel encompasses an area of the exclusive economic zone (EEZ) south of a line extending due west from the boundary of Lee and Collier Counties on the Florida west coast, and south of a line extending due east from the boundary of Monroe and Miami-Dade Counties on the Florida east coast, and includes the EEZ off Collier and Monroe Counties in south Florida (50 CFR 622.369(a)(1)(iii)).

The commercial quota for the hook-and-line component of the commercial sector in the southern zone is 575,400 lb (260,997 kg) for the current fishing year, July 1, 2019, through June 30, 2020 (50 CFR 622.384(b)(1)(iii)(A)).

Regulations at 50 CFR 622.8(b) and 622.388(a)(1) require NMFS to close any component of the king mackerel commercial sector when its applicable quota has been reached or is projected to be reached by filing a notification with the Office of the Federal Register. NMFS has determined the 2019–2020 hook-and-line commercial quota for Gulf king mackerel in the southern zone will be reached by March 4, 2020. Accordingly, the hook-and-line component of the commercial sector for Gulf king mackerel in the southern zone is closed from March 4, 2020, through the end of the fishing year on June 30, 2020. The commercial hook-and-line component for Gulf king mackerel in the southern zone will reopen on July 1, 2020.

NMFS has also determined that the Gulf king mackerel commercial quota for vessels using run-around gillnet gear in the southern zone was reached on February 25, 2020, and therefore on that date, NMFS closed the southern zone to commercial king mackerel fishing using run-around gillnet gear (85 FR 11861, February 28, 2020). Accordingly, all commercial fishing for Gulf king mackerel in the southern zone is closed effective at 12:01 a.m. local time on March 4, 2020. The commercial hook-and-line component for Gulf king mackerel in the southern zone will reopen on July 1, 2020. The commercial run-around gillnet component will reopen at 6 a.m. local time on January 19, 2021.

A person aboard a vessel that has a valid Federal commercial permit for king mackerel may continue to retain king mackerel under the recreational bag and possession limits set forth in 50 CFR 622.382(a)(1)(ii) and (a)(2), as long as the recreational sector for Gulf king mackerel is open (50 CFR 622.384(e)(1)).

During the commercial closure, king mackerel caught with hook-and-line gear from the closed zone may not be purchased or sold, including those harvested under the recreational bag and possession limits. This prohibition does not apply to king mackerel caught with hook-and-line gear 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 FMP, the Magnuson-Stevens Act, and other applicable laws.

This action is taken under 50 CFR 622.8(b) and 622.388(a)(1), 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 on this temporary rule pursuant to the authority set forth in 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 implement immediately this action to protect the Gulf 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 effectiveness of the action under 5 U.S.C. 553(d)(3).

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

Dated: March 2, 2020.

Karyl K. Brewster-Geisz,

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 648

[Docket No. 200225–0063]

RIN 0648–BF57

Magnuson-Stevens Act Provisions; Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Approval of New Gear Under Small-Mesh Fisheries Accountability Measures

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

ACTION: Final rule.

SUMMARY: This action approves new selective trawl gear for use in several non-groundfish fisheries when subject to the Georges Bank yellowtail flounder accountability measure. The selective gear reduces bycatch of groundfish species, while allowing the target fisheries to continue operating when selective trawl gear is required. This selective trawl gear will provide the fishing industry with more flexibility when accountability measures are triggered because there are limited selective trawl gears currently approved for use.

DATES: Effective April 6, 2020.

ADDRESSES: Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this final rule may be submitted to Michael Pentony, Regional Administrator, National Marine Fisheries Service, 55 Great Republic Drive, Gloucester, MA 01930, and by email to *OIRA_Submission@omb.eop.gov,* or fax to (202) 395–7285. Copies of the studies referenced in this final rule may also be submitted to Michael Pentony at the above listed address.

FOR FURTHER INFORMATION CONTACT: Emily Keiley, Fishery Management