

November 28, 2015. Therefore, NMFS closes the Florida west coast northern subzone to commercial king mackerel fishing on November 28, 2015, to protect the Gulf king mackerel resource.

**DATES:** The closure is effective noon, local time, November 28, 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 Coastal Migratory Pelagic Resources in the Gulf of Mexico and Atlantic Region (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 Gulf migratory group king mackerel is divided into western and eastern zones. The Gulf's eastern zone for king mackerel is further divided into the Florida west coast northern and southern subzones that have separate quotas. The quota for the Florida west coast northern subzone is 178,848 lb (81,124 kg) (50 CFR 622.384(b)(1)(i)(B)(2)).

Regulations at 50 CFR 622.388(a)(1) require NMFS to close the commercial sector for Gulf migratory group king mackerel in the Florida west coast northern subzone 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. Based on the best scientific information available, NMFS has determined the commercial quota of 178,848 lb (81,124 kg) for Gulf migratory group king mackerel in the Florida west coast northern subzone will be reached by November 28, 2015. Accordingly, the Florida west coast northern subzone is closed effective noon, local time, November 28, 2015, through June 30, 2016, the end of the current 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 subzone (50 CFR 622.384(e)(1) and (e)(2)). 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 subzone 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 subzone, 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 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 (50 CFR 622.384(e)(3)).

The Florida west coast northern subzone is that part of the EEZ between 26°19.8' N. latitude (a line directly west from the boundary between Lee and Collier Counties, FL) and 87°31.1' W. longitude (a line directly south from the state boundary of Alabama and Florida).

**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 Florida west coast northern 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), 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. Such procedures are contrary to the public interest because the capacity of the fishing fleet allows for rapid harvest of the quota, and there is a need to immediately implement this action to protect the king mackerel resource. 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 23, 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 665**

**[Docket No. 130708597-4380-01]**

**RIN 0648-XE329**

**Pacific Island Pelagic Fisheries; 2015 CNMI Longline Bigeye Tuna Fishery; Closure**

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

**ACTION:** Temporary rule; closure.

**SUMMARY:** NMFS is closing the U.S. pelagic longline fishery for bigeye tuna in the western and central Pacific Ocean as a result of the fishery reaching the 2015 allocation limit for the Commonwealth of the Northern Mariana Islands (CNMI). This action is necessary to comply with regulations managing this fish stock.

**DATES:** Effective November 30, 2015, through December 31, 2015.

**FOR FURTHER INFORMATION CONTACT:**

Jarad Makaiau, NMFS PIRO Sustainable Fisheries, 808-725-5176.

**SUPPLEMENTARY INFORMATION:** On August 5, 2015, NMFS restricted the retention, transshipment and landing of bigeye tuna captured by longline gear in the western and central Pacific Ocean (WCPO) as a result of the U.S. longline fishery reaching the 2015 U.S. bigeye

tuna limit of 3,502 mt (80 FR 44883, July 28, 2015). Regulations at 50 CFR 300.224(d) provide an exception to this closure for bigeye tuna caught by U.S. longline vessels identified in a valid specified fishing agreement under 50 CFR 665.819(c). Further, 50 CFR 665.819(c)(9) authorized NMFS to attribute catches of bigeye tuna made by U.S. longline vessels identified in a valid specified fishing agreement to the U.S. territory to which the agreement applies.

Effective on October 9, 2015, NMFS specified a 2015 catch limit of 2,000 mt of longline-caught bigeye tuna for the CNMI (80 FR 61767, October 14, 2015). NMFS also authorized the CNMI to allocate up to 1,000 mt of its 2,000 mt bigeye tuna limit to U.S. longline fishing vessels permitted to fish under the Fishery Ecosystem Plan for Pelagic Fisheries of the Western Pacific (FEP).

On October 9, 2015, the Western Pacific Fishery Management Council, through its Executive Director, transmitted to NMFS a specified fishing agreement between the CNMI and Quota Management, Inc. (QMI), dated September 16, 2015, and amended on October 15, 2015, by adding one vessel. NMFS reviewed the agreement, as amended, and determined that it was consistent with the requirements at 50 CFR 665.819, the FEP, the Magnuson-Stevens Fishery Conservation and Management Act, and other applicable laws. The criteria that a specified fishing agreement must meet, and the process for attributing longline-caught bigeye tuna, followed the procedures in 50 CFR 665.819—Territorial catch and fishing effort limits.

In accordance with 50 CFR 300.224(d) and 50 CFR 665.819(c)(9), NMFS began attributing bigeye tuna caught in the WCPO by vessels identified in the CNMI/QMI agreement to the CNMI, beginning on October 9, 2015. NMFS monitored catches of longline-caught bigeye tuna by the CNMI longline fisheries, including catches made by U.S. longline vessels operating under the CNMI/QMI agreement. Based on this monitoring, NMFS forecasted that the CNMI territorial allocation limit of 1,000 mt will be reached by the end of

November 2015, and is, as an accountability measure, prohibiting the catch and retention of longline-caught bigeye tuna by vessels in the CNMI/QMI agreement.

#### Notice of Closure and Temporary Rule

On November 30, 2015, through December 31, 2015, NMFS closes the U.S. pelagic longline fishery for bigeye tuna in the western and central Pacific Ocean as a result of the fishery reaching the 2015 allocation limit of 1,000 mt for the CNMI.

During the closure, a U.S. fishing vessel operating under the CNMI/QMI agreement may not retain on board, transship, or land bigeye tuna captured by longline gear in the WCPO, except that any bigeye tuna already on board a fishing vessel upon the effective date of the restrictions may be retained on board, transshipped, and landed, provided that they are landed within 14 days of the start of the closure, that is, by December 14, 2015. Additionally, U.S. fishing vessels operating under the CNMI/QMI agreement are also prohibited from transshipping bigeye tuna caught in the WCPO by longline gear to any vessel other than a U.S. fishing vessel with a valid permit issued under 50 CFR 660.707 or 665.801.

During the closure, all other restrictions and requirements NMFS established on August 5, 2015, as a result of the U.S. longline fishery reaching the 2015 U.S. bigeye tuna limit of 3,502 mt (80 FR 44883, July 28, 2015) shall remain valid and effective.

NMFS notes that there is a pending case in litigation—*Conservation Council for Hawai'i, et al., v. NMFS* (D. Hawaii); case no. 14-cv-528—that challenges the framework process for allocations from the territories to U.S. longline fishing vessels.

#### Classification

There is good cause to waive the prior notice and public comment requirement of the Administrative Procedure Act, and make this rule effective immediately upon publication in the **Federal Register**. This rule closes the U.S. longline fishery for bigeye tuna in the WCPO as a result of reaching the bigeye tuna allocation limit established

by the 2015 specification for catch and allocation limits of bigeye tuna for the CNMI, and the specified fishing agreement between the Government of the CNMI and QMI dated September 16, 2015, amended on October 15, 2015.

NMFS forecasts that the fishery will reach the 2015 limit by the end of November 2015. Fishermen have been subject to longline bigeye tuna limits in the western and central Pacific since 2009. They have received ongoing, updated information about the 2015 catch and progress of the fishery in reaching the Convention Area limit via the NMFS Web site, social media, and other means. The publication timing of this rule, moreover, provides longline fishermen with seven days' advance notice of the closure date, and allows two weeks to return to port and land their catch of bigeye tuna. This action is intended to comply with regulations managing this stock, and, accordingly NMFS finds it impracticable and contrary to the public interest to have prior notice and public comment.

For the reasons stated above, there is also good cause to waive the 30-day delay requirement of the Administrative Procedure Act for this notice and temporary rule. NMFS must close the fishery as soon as possible to ensure that fishery does not exceed the allocation limit. NMFS implemented the catch and allocation limits for the CNMI consistent with management objectives to sustainably manage the bigeye tuna stock and restore the stock to levels capable of producing maximum sustainable yield on a continuing basis. Failure to close the fishery immediately would be inconsistent with bigeye tuna management objections and in violation of Federal law.

This action is required by 50 CFR 665.819(d), and is exempt from review under Executive Order 12866.

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

Dated: November 23, 2015.

**Emily H. Menashes,**

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

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