

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 10, 2016. Accordingly, the Florida west coast northern subzone is closed to commercial fishing for Gulf migratory group king mackerel effective from noon, local time, November 10, 2016, through September 30, 2017, the end of the current fishing year. The next fishing year for the Florida west coast northern subzone is October 1, 2017, through September 30, 2018.

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, as specified in 50 CFR 622.384(e)(1) and (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 harvested 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, as specified in 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)(i) 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 NOAA Fisheries (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 AMs 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 commercial 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 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: November 7, 2016.

**Jenni Wallace,**

*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. 151211999-6343-02]

RIN 0648-XF030

### Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Witch Flounder Trimester Total Allowable Catch Area Closure for the Common Pool Fishery

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

**ACTION:** Temporary rule; area closure.

**SUMMARY:** This action closes the Witch Flounder Trimester Total Allowable Catch Area to Northeast multispecies common pool vessels fishing with trawl gear for the remainder of Trimester 2, through December 31, 2016. The common pool fishery is projected to have caught 90 percent of its Trimester 2 quota for witch flounder. The closure is intended to prevent an overage of the common pool's quota for this stock.

**DATES:** This action is effective November 9, 2016, through December 31, 2016.

**FOR FURTHER INFORMATION CONTACT:** Liz Sullivan, Fishery Management Specialist, (978) 282-8493.

**SUPPLEMENTARY INFORMATION:** Federal regulations at 50 CFR 648.82(n)(2)(ii) require the Regional Administrator to close a common pool Trimester Total Allowable Catch (TAC) Area for a stock when 90 percent of the Trimester TAC is projected to be caught. The closure applies to all common pool vessels fishing with gear capable of catching that stock for the remainder of the trimester.

As of November 1, 2016, the common pool fishery caught approximately 80 percent of the Trimester 2 TAC (2.4 mt) for witch flounder. We project that 90 percent of the Trimester 2 TAC was caught by November 6.

Effective November 9, 2016, the Witch Flounder Trimester TAC Area is closed for the remainder of Trimester 2, through December 31, 2016, to all common pool vessels fishing with trawl gear. The Witch Flounder Trimester TAC Area consists of statistical areas 512, 513, 514, 515, 521, 522, and 525. The area reopens at the beginning of Trimester 3 on January 1, 2017.

If a vessel declared its trip through the Vessel Monitoring System (VMS) or the interactive voice response system, and

crossed the VMS demarcation line prior to November 9, 2016, it may complete its trip within the Trimester TAC Area.

Any overage of the Trimester 1 or 2 TACs must be deducted from the Trimester 3 TAC. Any uncaught portion of the Trimester 1 and Trimester 2 TACs is carried over into the next trimester. If the common pool fishery exceeds its sub-ACL for the 2016 fishing year, the overage must be deducted from the common pool's sub-ACL for fishing year 2017. However, any uncaught portion of the common pool's sub-ACL may not be carried over into the following fishing year.

Weekly quota monitoring reports for the common pool fishery are on our Web site at: <http://www.greateratlantic.fisheries.noaa.gov/ro/fso/MultiMonReports.htm>. We will continue to monitor common pool catch through vessel trip reports, dealer-reported landings, VMS catch reports, and other available information, and, if necessary, we will make additional

adjustments to common pool management measures.

#### Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

The Assistant Administrator for Fisheries, NOAA, finds good cause pursuant to 5 U.S.C. 553(b)(B) and 5 U.S.C. 553(d)(3) to waive prior notice and the opportunity for public comment and the 30-day delayed effectiveness period because it would be impracticable and contrary to the public interest.

Regulations require the Regional Administrator to close a trimester TAC area to the common pool fishery when 90 percent of the Trimester TAC for a stock has been caught. Updated catch information only recently became available indicating that common pool catch would reach 90 percent of the Trimester 2 TAC for witch flounder by November 6, 2016. The time necessary

to provide for prior notice and comment, and a 30-day delay in effectiveness, would prevent the immediate closure of the Witch Flounder Trimester 2 TAC Area. Delaying the effective date of the closure increases the likelihood that the common pool fishery will exceed its quota of witch flounder to the detriment of this stock, which could undermine management objectives of the Northeast Multispecies FMP.

Additionally, an overage of the common pool quota could cause negative economic impacts to the common pool fishery as a result of overage paybacks in a future trimester or fishing year.

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

Dated: November 8, 2016.

**Jennifer M. Wallace,**

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

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