



**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 622**

**[Docket No. 140722613-4908-02]**

**RTID 0648-XD394**

**Coastal Migratory Pelagic Resources of the Gulf of Mexico  
and Atlantic Region; Commercial Closure for Atlantic  
Spanish Mackerel in the Northern 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 Spanish mackerel in the northern zone of the Atlantic exclusive economic zone (EEZ). NMFS projects that the commercial quota for Spanish mackerel in the northern zone of the Atlantic EEZ has been reached. Therefore, NMFS closes the northern zone for commercial harvest of Spanish mackerel to protect the Spanish mackerel resource in the Atlantic.

**DATES:** This temporary rule is effective from 12:01 a.m. eastern time on September 25, 2023, through February 29, 2024.

**FOR FURTHER INFORMATION CONTACT:** Mary Vara, NMFS Southeast Regional Office, telephone: 727-824-5305, or email: [mary.vara@noaa.gov](mailto:mary.vara@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The fishery for coastal migratory pelagic fish in the Atlantic includes king mackerel, Spanish mackerel, and cobia on the east coast of Florida, and is managed under the Fishery Management Plan for 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. The FMP is implemented by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) through regulations at 50 CFR part 622. All weights described for Spanish mackerel in the Atlantic EEZ apply as either round or gutted weight.

The commercial annual catch limit (equal to the commercial quota) for the Atlantic migratory group of Spanish mackerel (Atlantic Spanish mackerel) is 3.33 million lb (1.51 million kg). Atlantic Spanish mackerel are divided into northern and southern zones for management purposes. The commercial quota for Atlantic Spanish mackerel in the northern zone is 662,670 lb (300,582 kg) for the current fishing year, which is March 1, 2023, through February 29, 2024 (50 CFR 622.384(c)(2)(i)).

The northern zone for Spanish mackerel extends in the Atlantic EEZ from New York through North Carolina. The northern boundary of the northern zone extends from an intersection point off New York, Connecticut, and Rhode

Island at 41°18'16.249" N latitude and 71°54'28.477" W longitude, and proceeds southeast to 37°22'32.75" N latitude and the intersection point with the outward boundary of the EEZ. The southern boundary of the northern zone extends from the North Carolina and South Carolina state border along a line in a direction of 135°34'55" from true north beginning at 33°51'07.9" N latitude and 78°32'32.6" W longitude to the intersection point with the outward boundary of the EEZ (50 CFR 622.369(b)(2)). See Figure 2 of appendix G to part 622--Spanish Mackerel for an illustration of the management zones.

Regulations at 50 CFR 622.388(d)(1)(i) require NMFS to close the commercial sector for Atlantic Spanish mackerel in the northern zone when the commercial quota for that zone is reached, or is projected to be reached, by filing such a notification with the Office of the Federal Register. NMFS projects that the commercial quota of 662,670 lb (300,582 kg) for Atlantic Spanish mackerel in the northern zone has been reached. Accordingly, the commercial sector for Atlantic Spanish mackerel in the northern zone is closed effective at 12:01 a.m. eastern time on September 25, 2023, through February 29, 2024, the end of the current fishing year.

During the commercial closure, a person on a vessel that has been issued a valid Federal commercial permit to harvest Atlantic Spanish mackerel may continue to retain

this species in the northern zone under the recreational bag and possession limits specified in 50 CFR 622.382(a)(1)(iii) and (2)(i), if recreational harvest of Atlantic Spanish mackerel in the northern zone has not been closed (50 CFR 622.384(e)(1)).

Also during the closure, Atlantic Spanish mackerel from the northern zone, including those fish harvested under the recreational bag and possession limits, may not be purchased or sold. This prohibition does not apply to Atlantic Spanish mackerel from the northern 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**

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is required by 50 CFR 622.388(d)(1)(i), which was issued pursuant to section 304(b) of the Magnuson-Stevens Act, and is exempt from review under Executive Order 12866.

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment 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. Such procedures are also contrary to the public interest because of the need to immediately implement the closure to protect Atlantic Spanish mackerel, 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 result in additional harvest in exceedance of the established commercial quota.

For the same reasons, there is 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: September 20, 2023.

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Kelly Denit,  
Director, Office of Sustainable Fisheries,  
National Marine Fisheries Service.