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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 001005281-0369-02]

RIN 0648-XA944

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic;
Coastal Migratory Pelagic Resources of the Gulf of Mexico and
South Atlantic

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS closes the southern Florida west coast subzone in
the exclusive economic zone (EEZ) to commercial king mackerel
fishing using run-around gillnets. This closure is necessary to
protect the Gulf king mackerel resource.

DATES: The closure is effective 6 a.m., local time, January 21,
2012, through 6 a.m., local time, January 21, 2013.

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SUPPLEMENTARY INFORMATION: The fishery for coastal migratory
pelagic fish (king mackerel, Spanish mackerel, and cobia) is
managed under the Fishery Management Plan for the Coastal

Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (FMP). The FMP was prepared by the Gulf of Mexico and South Atlantic Fishery Management Councils (Councils) and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

On April 27, 2000, NMFS implemented the final rule (65 FR 16336, March 28, 2000) that divided the Florida west coast subzone of the eastern zone into northern and southern subzones, and established their separate quotas. Based on the Councils' recommended total allowable catch and the allocation ratios in the FMP, on April 30, 2001 (66 FR 17368, March 30, 2001), NMFS implemented a commercial quota of 2.25 million lb (1.02 million kg) for the eastern zone (Florida) of the Gulf migratory group of king mackerel. That quota is further divided into separate quotas for the Florida east coast subzone and the northern and southern Florida west coast subzones. The quota implemented for the southern Florida west coast subzone is 1,040,625 lb (472,020 kg). That quota is further divided into two equal quotas of 520,312 lb (236,010 kg) for vessels in each of two groups fishing with run-around gillnets and hook-and-line gear (50 CFR 622.42(c)(1)(i)(A)(2)(i)).

The southern subzone is that part of the Florida west coast

subzone, which from November 1 through March 31, extends south and east from 26°19.8' N. lat. (a line directly west from the Lee/Collier County, FL, boundary) to 25°20.4' N. lat. (a line directly east from the Monroe/Miami-Dade County, FL, boundary), i.e., the area off Collier and Monroe Counties. From April 1 through October 31, the southern subzone is that part of the Florida west coast subzone which is between 26°19.8' N. lat. (a line directly west from the Lee/Collier County, FL, boundary) and 25°48' N. lat. (a line directly west from the Collier/Monroe County, FL, boundary), i.e., the area off Collier County (50 CFR 622.42(c)(1)(i)(A)(3)).

Under 50 CFR 622.43(a)(3), NMFS is required to close any segment of the king mackerel commercial sector when its quota has been reached, or is projected to be reached, by filing a notification at the Office of the Federal Register. NMFS has determined that the commercial quota of 520,312 lb (236,010 kg) for Gulf group king mackerel for vessels using run-around gillnet gear in the southern Florida west coast subzone will be reached on January 20, 2012. Accordingly, commercial fishing for such vessels in the southern Florida west coast subzone is closed at 6 a.m., local time, January 21, 2012, through 6 a.m., local time, January 21, 2013, the beginning of the next fishing season, i.e., the day after the 2013 Martin Luther King Jr.

Federal holiday.

Classification

This action responds to the best available information recently obtained from the fisheries. The Assistant Administrator for Fisheries, NOAA (AA), finds that the need to immediately implement this action to close the fishery constitutes good cause to waive the requirements to provide prior notice and opportunity for public comment pursuant to the authority set forth in 5 U.S.C. 553(b)(B). Such procedures would be unnecessary because the rule implementing the quota and the associated requirement for closure of the commercial harvest when the quota is reached or projected to be reached has already been subject to notice and comment, and all that remains is to notify the public of the closure.

Providing prior notice and opportunity for public comment on this action would be contrary to the public interest because any delay in the closure of the commercial harvest could result in the commercial quota being exceeded. There is a need to immediately implement this action to protect the king mackerel resource because the capacity of the fishing fleet allows for rapid harvest of the quota.

For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in effectiveness under 5 U.S.C.

553(d)(3).

This action is taken under 50 CFR 622.43(a) and is exempt from review under Executive Order 12866.

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

Dated: January 20, 2012

Steven Thur,
Acting Director,
Office of Sustainable Fisheries,
National Marine Fisheries Service.

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