



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 101206604-1758-02]

RIN 0648-XC464

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 implements an accountability measure (AM) through this temporary final rule for commercial harvest of king mackerel in the southern Florida west coast subzone of the eastern zone of the Gulf of Mexico (Gulf) exclusive economic zone (EEZ) using run-around gillnet gear. NMFS has determined that the commercial annual catch limit (ACL) (equal to the commercial quota) for king mackerel using run-around gillnet gear in the southern Florida west coast subzone of the Gulf EEZ will have been reached by January 29, 2014. Therefore, NMFS closes the southern Florida west coast subzone to commercial king mackerel fishing using run-around gillnet gear in the Gulf

EEZ. This closure is necessary to protect the Gulf king mackerel resource.

DATES: The closure is effective 12:01 p.m., eastern standard time, January 29, 2014, through 6 a.m., eastern standard time, January 20, 2015.

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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 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.

Gulf migratory group king mackerel's Florida west coast subzone of the Gulf eastern zone is divided into northern and southern subzones, each with separate quotas. The southern subzone is that part of the Florida west coast subzone, which from November 1 through March 31, extends south and west from 25°20.4' N. lat. (a line directly east from the Miami-Dade/Monroe County, FL, boundary), north to 26°19.8' N. lat. (a line directly

west from the Lee/Collier County, FL, boundary), i.e., the area off Monroe and Collier Counties. From April 1 through October 31, the southern subzone is that part of the Florida west coast subzone that 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 Monroe/Collier County, FL, boundary), i.e., the area off Collier County (50 CFR 622.384(b)(1)(i)(C)).

On January 30, 2012 (76 FR 82058, December 29, 2011), NMFS implemented a commercial ACL (commercial quota) for the Gulf migratory group king mackerel in the southern Florida west coast subzone of 551,448 lb (250,133 kg) for vessels using run-around gillnet gear (50 CFR 622.384(b)(1)(i)(B)(1)), for the current fishing year, July 1, 2013, through June 30, 2014.

Regulations at 50 CFR 622.8(b) require NMFS to close any segment of the king mackerel commercial sector when its ACL (quota) has been reached, or is projected to be reached, by filing a notification with the Office of the Federal Register. NMFS has determined that the commercial ACL (commercial quota) of 551,448 lb (250,133 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 29, 2014. Accordingly, commercial fishing for such vessels in the southern

Florida west coast subzone is closed at 12:01 p.m., eastern standard time, January 29, 2014, through 6 a.m., eastern standard time, January 20, 2015, the beginning of the next fishing season, i.e., the day after the 2015 Martin Luther King Jr. Federal holiday. Accordingly, the operator of a vessel that has been issued a Federal commercial permit to harvest Gulf migratory group king mackerel using run-around gillnet gear in the southern Florida west coast subzone must have landed ashore and bartered, traded, or sold such king mackerel prior to 12:01 p.m., eastern standard time, January 29, 2014.

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 harvested using run-around gillnet gear in the southern Florida west coast subzone.

Persons aboard a vessel for which a commercial permit for king mackerel has been issued, except persons who also possess a king mackerel gillnet permit, may fish for or retain Gulf group king mackerel harvested using hook-and-line gear in the southern Florida west coast subzone at this time. 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 zones or subzones 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 using run-around gillnet gear in the southern Florida west coast subzone, including those harvested under the bag and possession limits, may not be purchased or sold. This prohibition does not apply to king mackerel harvested using run-around gillnet gear in the southern Florida west coast subzone that were harvested, landed ashore, and sold prior to the closure and were held in cold storage by a dealer or processor.

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 622.8(b) 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 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 ACL (quota) and the associated requirement for closure of the commercial harvest when the ACL (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).

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

Dated: January 28, 2014.

Sean F. Corson,
Acting Deputy Director, Office of Sustainable Fisheries,
National Marine Fisheries Service.

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