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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 101206604-1758-02]

RIN 0648-XD586

Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; 2014-2015 Accountability Measure and Closure for Gulf King Mackerel in the Florida West Coast Northern Subzone

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 king mackerel in the Florida west coast northern subzone of the eastern zone of the Gulf of Mexico (Gulf) in the U.S. exclusive economic zone (EEZ) through this temporary final rule. NMFS has determined that the quota for king mackerel in the Florida west coast northern subzone of the Gulf EEZ will have been reached by October 27, 2014. Therefore, NMFS closes the Florida west coast northern subzone to commercial king mackerel fishing in the EEZ on October 27, 2014, to protect the Gulf king mackerel resource.

DATES: The closure is effective noon, local time, October 27, 2014, until 12:01 a.m., local time, on July 1, 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 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 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 December 29, 2011 (76 FR 82058), final rule specified the quota for the Florida west coast northern subzone at 178,848 lb (81,124 kg) (50 CFR 622.384 (b) (1) (i) (B) (2)).

Because 75 percent of the Florida west coast northern subzone's quota had been harvested, NMFS published a temporary rule on October 14, 2014, to reduce the trip limit for the commercial sector of king mackerel in the Florida west coast northern subzone to 500 lb (227 kg) of king mackerel per day in or from the EEZ (79 FR 61585).

Regulations at 50 CFR 622.388(a)(1) and 50 CFR 622.384(e)

require NMFS to close the commercial sector for Gulf migratory group king mackerel in the Florida west coast northern subzone when the 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 October 27, 2014. Accordingly, the northern Florida west coast subzone is closed effective noon, local time, October 27, 2014, through June 30, 2015, the end of the 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)). 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 trade in 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) because prior notice and opportunity for public comment is unnecessary and contrary to the public interest. Prior notice and public comment is unnecessary because the rule implementing the commercial 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. Additionally, allowing prior notice and opportunity for public comment is contrary to the public interest because of the 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. Prior notice and opportunity for public comment would require time and would 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: October 22, 2014.

Emily H. Menashes,
Acting Director,
Office of Sustainable Fisheries,
National Marine Fisheries Service.

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