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[FR Doc. 2016-07044 Filed 3-25-16; 8:45 am]

BILLING CODE 1505-01-D

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 622**

[Docket No. 001005281-0369-02]

RIN 0648-XE533

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; 2016 Commercial Accountability Measure and Closure for 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) to close the hook-and-line component of the commercial sector for king mackerel in the Florida west coast southern subzone. This closure is necessary to protect the Gulf of Mexico (Gulf) king mackerel resource.

DATES: This rule is effective 12:01 a.m., local time, March 27, 2016, through June 30, 2016.

FOR FURTHER INFORMATION CONTACT: Susan Gerhart, NMFS Southeast Regional Office, telephone: 727-824-5305, email: susan.gerhart@noaa.gov.

SUPPLEMENTARY INFORMATION: The fishery for coastal migratory pelagic fish includes king mackerel, Spanish mackerel, and cobia, and is managed under the Fishery Management Plan for the 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 (Councils) and is implemented by NMFS 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 commercial quotas. The 2015 to 2016 fishing year quota for the hook-and-line component of the commercial sector in the Florida west coast southern subzone

is 551,448 lb (250,133 kg) (50 CFR 622.384(b)(1)(i)(B)(1)).

From November 1 through March 31, the southern subzone encompasses an area of the exclusive economic zone (EEZ) south of a line extending due west from the Lee and Collier County, Florida, boundary on the Florida west coast, and south of a line extending due east from the Monroe and Miami-Dade County, Florida, boundary on the Florida east coast, which includes the EEZ off Collier and Monroe Counties, Florida. From April 1 through October 31, the southern subzone is reduced to the EEZ off Collier County, and the EEZ off Monroe County becomes part of the Atlantic migratory group area.

Under 50 CFR 622.8(b) and 622.388(a)(1), NMFS is required to close any component 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 the commercial quota for the hook-and-line component of the commercial sector for Gulf migratory group king mackerel in the southern Florida west coast subzone will be reached by March 27, 2016.

Accordingly, the hook-and-line component of the commercial sector for Gulf migratory group king mackerel in the Florida west coast southern subzone is closed effective 12:01 a.m., local time, March 27, 2016, through the end of the fishing year on June 30, 2016.

On March 11, 2016, NMFS also closed the Florida west coast southern subzone to commercial harvest of king mackerel caught by run around gillnet gear, because the quota for that sector was reached (81 FR 12826, March 11, 2016). Therefore, during the closures no person aboard a vessel for which a valid commercial permit for king mackerel has been issued may harvest or possess Gulf migratory group king mackerel in or from Federal waters of the closed subzone, as specified in 50 CFR 622.384(e). However, there is one exception. A person aboard a vessel that has a valid Federal charter vessel/headboat permit and also has a commercial king mackerel permit for coastal migratory pelagic fish may continue to retain king mackerel in or from the closed subzone under the 2-fish daily recreational bag limit, provided the vessel is operating as a charter vessel or headboat. Charter vessels or headboats that have a valid commercial king mackerel permit are considered to be operating as a charter vessel or headboat when they carry a passenger who pays a fee or when more than three persons are aboard, including operator and crew.

Classification

The Regional Administrator, NMFS Southeast Region, 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 622.388(a)(1) 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 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), as such prior notice and opportunity for public comment on this temporary rule are unnecessary and contrary to the public interest. Such procedures are unnecessary because the regulations at 50 CFR 622.8(b) and 622.388(a)(1) have already been subject to notice and comment, and all that remains is to notify the public of the closure. Such procedures are contrary to the public interest, because there is a need to immediately implement this action to protect the king mackerel resource since the capacity of the fishing fleet allows for rapid harvest of the commercial quota. Prior notice and opportunity for public comment on this action would require time and would 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 effectiveness of the action under 5 U.S.C. 553(d)(3).

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

Dated: March 23, 2016.

Emily H. Menashes,

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

[FR Doc. 2016-06942 Filed 3-23-16; 4:15 pm]

BILLING CODE 3510-22-P