

(B) *Twine size.* The twine is at least 0.031 inches (0.81 mm) in diameter.

(C) *Size of nets.* Individual nets or net panels are not more than 300 ft (91.4 m or 50 fathoms) in length.

(D) *Number of nets.* The total number of individual nets or net panels for a vessel, including all nets on board the vessel, hauled by the vessel or deployed by the vessel, does not exceed 45.

(E) *Number of nets per string.* The total number of nets or net panels in a net string does not exceed 7.

(F) *Tie-down system.* Tie-downs are prohibited.

(c) *Research permits.* An exemption to the requirements set forth in this section may be acquired for the purposes of conducting scientific or gear research within the restricted areas described in this section. A scientific research permit must be acquired through NMFS' existing permit application process, administered by NMFS.

(d) *Other special measures.* The Assistant Administrator may revise the requirements of this section through notification published in the **Federal Register** if NMFS determines that the boundary or timing of a closed area is inappropriate, or that gear modifications are not reducing bycatch to below the stock's PBR level.

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 622

[Docket No. 001005281-0369-02]

RIN 0648-XU33

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

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

**ACTION:** Temporary rule; closure.

**SUMMARY:** NMFS closes the commercial hook-and-line fishery for king mackerel in the southern Florida west coast subzone. This closure is necessary to protect the Gulf king mackerel resource.

**DATES:** This rule is effective 12:01 a.m., local time, February 15, 2010, through June 30, 2010.

**FOR FURTHER INFORMATION CONTACT:** Susan Gerhart, telephone 727-824-

5305, fax 727-824-5308, e-mail [susan.gerhart@noaa.gov](mailto:susan.gerhart@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The fishery for coastal migratory pelagic fish (king mackerel, Spanish mackerel, cero, cobia, little tunny, and, in the Gulf of Mexico only, dolphin and bluefish) 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. The quota for the hook-and-line fishery in the southern Florida west coast subzone is 520,312 lb (236,010 kg)(50 CFR 622.42(c)(1)(i)(A)(2)(i)).

Under 50 CFR 622.43(a), NMFS is required to close any segment of the king mackerel commercial fishery 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 Gulf group king mackerel in the southern Florida west coast subzone will be reached by February 15, 2010. Accordingly, the commercial fishery for Gulf group king mackerel in the southern subzone is closed effective 12:01 a.m., local time, February 15, 2010, through June 30, 2010, the end of the fishing year.

From November 1 through March 31, the southern subzone is that part of the Florida west coast subzone off Collier and Monroe Counties, Florida. This is the area south and west from 25° 20.4' N. lat. (a line directly east from the Miami-Dade/Monroe County boundary on the east coast of Florida) to 26° 19.8' N. lat. (a line directly west from the Lee/Collier County boundary on the west coast of Florida). Beginning April 1, the southern subzone is reduced to the area off Collier County, Florida, between 25° 48' N. lat. and 26° 19.8' N. lat.

During the closure period, 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 Federal waters of the closed subzone. There is one exception, however, for a person aboard a charter vessel or headboat. A person aboard a vessel that has a valid charter/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 bag limit, provided the vessel is operating as a charter vessel or headboat. Charter vessels or headboats that hold a 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

This action responds to the best available information recently obtained from the fishery. 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), as such procedures would be unnecessary and contrary to the public interest. Such procedures would be unnecessary because the rule itself already has been subject to notice and comment, and all that remains is to notify the public of the closure.

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 fishery since 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 effectiveness of the action 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: February 12, 2010.

**Emily H. Menashes,**

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

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