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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

RIN 0648-BG03

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources in the Gulf of Mexico and Atlantic Region; Amendment 26

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

ACTION: Notice of availability; request for comments.

SUMMARY: The South Atlantic Fishery Management Council (South Atlantic Council) and Gulf of Mexico Fishery Management Council (Gulf Council) have jointly submitted Amendment 26 to the Fishery Management Plan for the Coastal Migratory Pelagics Fishery of the Gulf of Mexico and Atlantic Region (FMP) for review, approval, and implementation by NMFS. Amendment 26 would adjust the management boundary for the Gulf of Mexico (Gulf) and Atlantic migratory groups of king mackerel; revise management reference points, stock and sector annual catch limits (ACLs), commercial quotas, and recreational annual catch targets (ACTs) for Atlantic migratory group king mackerel; allow limited retention and sale of Atlantic

migratory group king mackerel incidentally caught in the shark gillnet fishery; establish a commercial split season for Atlantic migratory group king mackerel in the Atlantic southern zone; establish a commercial trip limit system for Atlantic migratory group king mackerel in the Atlantic southern zone; revise reference points and stock and sector ACLs for Gulf migratory group king mackerel; revise commercial zone quotas for Gulf migratory group king mackerel; and modify the recreational bag limit for Gulf migratory group king mackerel. The purpose of Amendment 26 is to ensure that king mackerel management is based on the best scientific information available, while increasing the social and economic benefits of the fishery.

DATES: Written comments must be received on or before *[insert date of 60 days after date of publication in the Federal Register]*.

ADDRESSES: You may submit comments on Amendment 26 identified by "NOAA-NMFS-2016-0120," by either of the following methods:

- Electronic submissions: Submit all electronic public comments via the Federal e-Rulemaking Portal: <http://www.regulations.gov>. Go to www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2016-

0120, click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.

- Mail: Submit written comments to Karla Gore, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in required fields if you wish to remain anonymous).

Electronic copies of Amendment 26 may be obtained from the Southeast Regional Office Web Site at <http://sero.nmfs.noaa.gov>. Amendment 26 includes a draft environmental assessment, a Regulatory Flexibility Act analysis, and a regulatory impact review.

FOR FURTHER INFORMATION CONTACT: Karla Gore, telephone: 727-551-5753, or email: karla.gore@noaa.gov.

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires each regional fishery management council to submit any FMP or FMP amendment to NMFS for review and approval, partial approval, or disapproval. The Magnuson-Stevens Act also requires that NMFS, upon receiving a plan or amendment, publish an announcement in the **Federal Register** notifying the public that the plan or amendment is available for review and comment.

The FMP being revised by Amendment 26 was prepared jointly by the South Atlantic and the Gulf Councils (Councils) and implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Act.

Background

In September of 2014, the Southeast Data, Assessment, and Review 38 stock assessment (SEDAR 38) was completed for both the Gulf migratory group and Atlantic migratory group of king mackerel. SEDAR 38 determined that both the Gulf migratory group and Atlantic migratory group of king mackerel are not overfished and are not undergoing overfishing. The Gulf Council's and South Atlantic Council's Scientific and Statistical Committees (SSCs) reviewed the assessment and concluded that SEDAR 38 should form the basis for revisions to reference points such as

the overfishing limit (OFL) and acceptable biological catch (ABC), and the ACLs for the two migratory groups of king mackerel. SEDAR 38 also provided genetic information on king mackerel, which indicated that the winter mixing zone for the two migratory groups was smaller than previously thought and that the management boundary for these migratory groups should be revised.

Actions Contained in Amendment 26

Amendment 26 includes actions to adjust the management boundary of the Gulf and Atlantic migratory groups of king mackerel; revise reference points, stock and sector ACLs, commercial quotas, and recreational ACTs for Atlantic migratory group king mackerel; allow limited retention and sale of Atlantic migratory group king mackerel incidentally caught in the shark gillnet fishery; establish a commercial split season for Atlantic migratory group king mackerel in the Atlantic southern zone; establish a commercial trip limit system for Atlantic migratory group king mackerel in the Atlantic southern zone; establish a commercial trip limit system for Atlantic migratory group king mackerel in the Atlantic southern zone; revise reference points and stock and sector ACLs for the Gulf migratory group of king mackerel; revise commercial zone quotas for Gulf migratory

group king mackerel; and modify the recreational bag limit for Gulf migratory group king mackerel.

Management Boundary and Zone Descriptions for the Gulf and Atlantic Migratory Groups of King Mackerel

Currently management boundaries change seasonally for the Gulf and Atlantic migratory groups of king mackerel based on the historical understanding that the two migratory groups mixed seasonally off the east coast of Florida and in Monroe County, Florida. However, in 2014, SEDAR 38 determined the mixing zone between the two migratory groups now exists only in the portion of the EEZ off Monroe County, Florida, south of the Florida Keys. Amendment 26 would set a single year-round regulatory boundary (Gulf/Atlantic group boundary) separating management of the two migratory groups of king mackerel, based on the genetic analysis used in SEDAR 38. This new year-round Gulf/Atlantic group boundary would be set at a line extending east of the Miami-Dade/Monroe County, FL boundary, to better represent the area where the two migratory groups primarily exist. The newly defined mixing zone off of the Florida Keys would be included in the Gulf migratory group and managed by the Gulf Council

Through Amendment 26, the Gulf migratory group's current eastern zone-northern subzone and eastern zone-

southern subzone would be renamed the northern zone and southern zone, respectively. The southern zone would include the new mixing zone, extending east to the new Gulf/Atlantic group boundary. The name and dimensions of the Gulf migratory group's western zone would remain the same. The Atlantic migratory group's northern zone would also remain unchanged. The southern boundary of the Atlantic migratory group's southern zone would shift to the new Gulf/Atlantic group boundary. Due to this shift, the current Florida east coast subzone would no longer exist under Amendment 26. Instead, that area would be included in the Atlantic migratory group's southern zone year-round.

This action would not change the current Federal fishing permits requirements for fishing for king mackerel in the Gulf and Atlantic areas as defined in Federal regulations.

Atlantic Migratory Group King Mackerel Reference Points, ACLs, Commercial Quotas and Recreational ACTs

Amendment 18 to the FMP established reference points, ACLs, and accountability measures for both migratory groups of king mackerel (76 FR 82058, December 29, 2011). The current ABC of 10.46 million lb (4.74 million kg) for the Atlantic migratory group king mackerel was set in Amendment 18. In Amendment 26, the Councils chose revisions of the

OFLs and ABCs for Atlantic migratory group king mackerel based on SEDAR 38 and the South Atlantic Council's SSC ABC recommendation based on a high recruitment scenario. The Atlantic migratory group ABC would gradually decrease from 17.4 million lb (7.89 million kg) in the 2016-2017 fishing year to 12.7 million lb (5.76 million kg) in the 2019-2020 fishing year.

Amendment 26 would also set the stock ACL equal to OY and the ABC. The Atlantic migratory group's sector allocation (37.1 percent of the ACL to the commercial sector and 62.9 percent of the ACL to the recreational sector) will not change through Amendment 26. Amendment 26 would revise the commercial ACLs for Atlantic migratory group king mackerel to be 6.5 million lb (2.9 million kg) for the 2016-2017 fishing year, 5.9 million lb (2.7 million kg) for the 2017-2018 fishing year, 5.2 million lb (2.4 million kg) for the 2018-2019 fishing year, and 4.7 million lb (2.1 million kg) for the 2019-2020 fishing year and subsequent fishing years. The recreational ACLs for Atlantic migratory group king mackerel would be set at 10.9 million lb (4.9 million kg) for the 2016-2017 fishing year, 9.9 million lb (4.5 million kg) for the 2017-2018 fishing year, 8.9 million lb (4.0 million kg) for the 2018-2019 fishing year, and 8.0 million lb (3.6 million kg) for the

2019-2020 fishing year and subsequent fishing years. The recreational sector ACTs for Atlantic migratory group kind mackerel would be set at 10.1 million lb (4.6 million kg) for the 2016-2017 fishing year, 9.2 million lb (4.2 million kg) for the 2017-2018 fishing year, 8.3 million lb (3.8 million kg) for the 2018-2019 fishing year and 7.4 million lb (3.4 million kg) for the 2019-2020 fishing year and subsequent fishing years.

The commercial ACLs for Atlantic migratory group king mackerel would be divided each fishing year between the northern zone (23.04 percent) and the southern zone (76.96 percent) into their respective commercial quotas. The proposed commercial quotas for the Atlantic northern zone would be 1,497,600 lb (679,300 kg) for the 2016-17 fishing year, 1,259,360 lb (616,595 kg) for the 2017-2018 fishing year, 1,198,080 lb (543,440 kg) for the 2018-2019 fishing year, and 1,082,880 lb (491,186 kg) for the 2019-2020 fishing year and subsequent years. Proposed commercial quotas for the Atlantic southern zone would be 5,002,400 lb (2,269,050 kg) for the 2016-2017 fishing year, 4,540,640 lb (2,059,600 kg) for the 2017-2018 fishing year, 4,001,920 lb (1,815,240 kg) for the 2018-2019 fishing year, and 3,617,120 lb (1,640,698 kg) for the 2019-2020 fishing year and subsequent fishing years.

*Incidental Catch of Atlantic Migratory Group King Mackerel
Caught in the Shark Gillnet Fishery*

Amendment 20A to the FMP prohibited recreational bag limit sales of king mackerel by commercially permitted king mackerel fishers in South Atlantic Council jurisdictional waters, which included king mackerel incidentally caught on directed commercial shark trips (79 FR 34246, June 16, 2014).

In Amendment 26, the Councils determined that, as a result of the mesh size used and the nature of the shark gillnet fishery, most king mackerel are already dead when the shark gillnets are retrieved. The Councils decided that some incidental catch of Atlantic migratory group king mackerel should be allowed for retention and sale if it is incidentally caught in the commercial shark gillnet fishery on vessels with a Federal king mackerel commercial permit.

If Amendment 26 is approved and implemented, a vessel in the Atlantic Exclusive Economic Zone that is engaged in directed shark fishing with gillnets, and that has both a valid Federal shark directed commercial permit and a valid Federal king mackerel commercial permit, would be allowed to retain and sell a limited number of king mackerel. In the Atlantic northern zone, no more than three king mackerel per crew member could be retained or sold per

trip. In the Atlantic southern zone, no more than two king mackerel per crew member could be retained or sold per trip. The incidental catch allowance would not apply to commercial shark trips that are using an authorized gillnet for Atlantic migratory group king mackerel north of Cape Lookout Light. In that area the existing commercial trip limit of 3,500 lb (1,588 kg) would apply. No type of gillnet is an allowable gear for Atlantic migratory group king mackerel south of Cape Lookout Light. These incidentally caught king mackerel would have to be retained or sold to a dealer with a valid Federal Gulf and South Atlantic dealer permit. This action is intended to reduce king mackerel discards and allow for the limited retention and sale of king mackerel, while not encouraging direct harvest of king mackerel on these shark fishing trips.

Commercial Split Seasons for Atlantic Migratory Group King Mackerel in Atlantic Southern Zone

Currently, the commercial fishing year for Atlantic migratory group king mackerel is March 1 through the end of February, and the commercial ACLs for the Atlantic northern zone and southern zone are allocated for the entire fishing year. Amendment 26 would divide the annual Atlantic migratory group king mackerel commercial quota for the Atlantic southern zone into two commercial seasons. The

Atlantic northern zone quota would not be split. Amendment 26 would divide the commercial quotas for the Atlantic southern zone by allocating 60 percent to the first season of March 1 through September 30, and 40 percent to the second season of October 1 through the end of February. This commercial split season for the Atlantic southern zone quota is intended to ensure that a portion of the southern zone's quota is available in later months of the fishing year, which will allow for increased fishing opportunities during more of the fishing year.

The proposed seasonal commercial quotas for the first season of March 1 through September 30 each fishing year in the southern zone would be: 3,001,440 lb (1,361,430 kg) for the 2016-2017 fishing year, 2,724,384 lb (1,235,760 kg) for the 2017-2018 fishing year, 2,401,152 lb (1,089,144 kg) for the 2018-2019 fishing year, and 2,170,272 lb (984,419 kg) for the 2019-2020 fishing year and subsequent fishing years. The proposed seasonal commercial quotas for the second season of October 1 through the end of February each fishing year in the southern zone would be: 2,000,960 lb (907,620 kg) for the 2016-2017 fishing year, 1,816,256 lb (823,840 kg) for the 2017-2018 fishing year, 1,600,768 lb (726,096 kg) for the 2018-2019 fishing year, and 1,446,848

lb (656,279 kg) for the 2019-2020 fishing year and subsequent years.

Commercial Trip Limit System for the Atlantic Migratory Group of King Mackerel in the Atlantic Southern Zone

Commercial trip limits for Atlantic migratory group king mackerel are limits on the amount of that species that may be possessed on board or landed, purchased or sold from a federally permitted king mackerel vessel per day. Several commercial trip limits currently exist in the Atlantic southern zone. North of $29^{\circ} 25'$ N. lat., which is a line directly east from the Flagler/Volusia County, FL, boundary, the trip limit for Atlantic migratory group king mackerel is 3,500 lb (1,588 kg) year-round. In the area between the Flagler/Volusia County, FL, boundary ($29^{\circ} 25'$ N. lat.) and $28^{\circ} 47.8'$ N. lat., which is a line extending directly east from the Volusia/Brevard County, FL, boundary, the trip limit is 3,500 lb (1,588 kg) from April 1 through October 31. In the area between the Volusia/Brevard County, FL, boundary ($28^{\circ} 47.8'$ N. lat.) and $25^{\circ} 20.4'$ N. lat., which is a line directly east from the Miami-Dade/Monroe County, FL boundary, the trip limit is 75 fish from April 1 through October 31. In the area between the Miami-Dade/Monroe County, FL, boundary, and $25^{\circ} 48''$ N. lat., which is a line directly west from

Monroe/Collier County, FL, boundary, the trip limit is 1,250 lb (567 kg) from April 1 through October 31.

Amendment 26 would revise the commercial trip limits for Atlantic migratory group king mackerel in the Atlantic southern zone, based on the revised management boundary and split commercial season. During the first commercial season (March 1 through September 30), in the area between the Flagler/Volusia County, FL, boundary (29° 25' N. lat.), and the Miami-Dade/Monroe County, FL boundary (25° 20.24" N. lat.), the trip limit would be 50 fish during March. From April 1 through September 30, the trip limit would be 75 fish, unless NMFS determines that 75 percent or more of the Atlantic southern zone quota for the first season has been landed, then the trip limit would be 50 fish. During the second commercial season (October 1 through the end of February), the trip limit would be 50 fish for the area between the Flagler/Volusia County, FL, boundary, and the the Miami-Dade/Monroe County, FL boundary. During the month of February, the trip limit would remain 50 fish, unless NMFS determines that less than 70 percent of the commercial quota for the southern zone's second season has been landed, then the trip limit would be 75 fish.

Amendment 26 would not revise the 3,500 lb (1,588 kg) year-round trip limit for Atlantic migratory group king mackerel, north of the Flagler/Volusia County, FL boundary.

In Amendment 26, the Councils determined that these changes to the commercial season and commercial trip limits for the Atlantic southern zone would ensure the longest possible commercial fishing season for Atlantic migratory group king mackerel.

Gulf Migratory Group King Mackerel ACLs

The current ABC and total ACL for Gulf migratory group king mackerel is 10.8 million lb (4.89 million kg). Based on its review of SEDAR 38, the Gulf Council's SSC recommended OFLs and ABCs for Gulf migratory group king mackerel for the 2015-2016 through 2019-2020 fishing years that decrease over time. The Gulf migratory group king mackerel ABCs in Amendment 26 are lower than the current ABC and total ACL, because the geographical area for which the new ABCs apply is smaller than the current area for which they apply, as a result of the proposed zone revisions in the Gulf and Atlantic.

Because Gulf migratory group king mackerel is not overfished or undergoing overfishing, the Gulf Council recommended that ACL remain equal to OY and to ABC. Therefore, in Amendment 26, the total ACLs for the Gulf

migratory group of king mackerel are the same values as the ABCs recommended by the Gulf SSC: 9.21 million lb (4.18 million kg) for the 2016-2017 fishing year, 8.88 million lb (4.03 million kg) for the 2017-2018 fishing year, 8.71 million lb (3.95 million kg) for the 2018-2019 fishing year, and 8.55 million lb (3.88 million kg) for the 2019-2020 fishing year.

Amendment 26 would not revise the current Gulf migratory group king mackerel allocations (68 percent of the total ACL to the recreational sector and 32 percent to the commercial sector). Based on the existing allocations, the commercial ACLs proposed for Gulf migratory group king mackerel are: 2.95 million lb (1.34 million kg) for the 2016-2017 fishing year, 2.84 million lb (1.29 million kg) for the 2017-2018 fishing year, 2.79 million lb (1.27 million kg) for the 2018-2019 fishing year, and 2.74 million lb (1.24 million kg) for the 2019-2020 fishing year and subsequent fishing years.

The Gulf migratory group commercial ACLs would be further divided each fishing year into gear-specific commercial ACLs for hook-and-line gear and for vessels fishing with run-around gillnet gear. The hook-and-line component commercial ACLs (which applies to the entire Gulf) would be: 2,330,500 lb (1,057,097 kg) for the 2016-

2017 fishing year, 2,243,600 lb (1,017,680 kg) for the 2017-2018 fishing year, 2,204,100 lb (999,763 kg) for the 2018-2019 fishing year, and 2,164,600 lb (981,846 kg) for the 2019-2020 fishing year and subsequent years. The run-around gillnet component commercial ACL (which applies to the Gulf southern zone) would be: 619,500 lb (281,000 kg) for the 2016-2017 fishing year, 596,400 lb (270,522 kg) for the 2017-2018 fishing year, 585,900 lb (265,760 kg) for the 2018-2019 fishing year, and 575,400 lb (260,997 kg) for the 2019-2020 fishing year and subsequent fishing years. The commercial quota by zones would also be modified (see below).

The proposed recreational ACLs for Gulf migratory group king mackerel would be: 6.26 million lb (2.84 million kg) for the 2016-2017 fishing year, 6.04 million lb (2.74 million kg) for the 2017-2018 fishing year, 5.92 million lb (2.69 million kg) for the 2018-2019 fishing year, and 5.81 million lb (2.64 million kg) for the 2019-2020 fishing year and subsequent fishing years.

Commercial Zone Quotas for Gulf Migratory Group King Mackerel

Amendment 26 would revise the Gulf migratory group commercial zone quotas, because of the proposed changes to the Councils' jurisdictional boundaries and resultant zone

revisions. The current allocation of the commercial ACL for Gulf migratory group king mackerel by zones is: 31 percent in the western zone, 5.17 percent in the northern zone, 15.96 percent for the southern zone using hook-and-line gear, 15.96 percent for the southern zone using gillnet gear, and 31.91 percent for the Florida east coast subzone. However, under Amendment 26, the Florida east coast subzone would no longer exist and the quota associated with that zone would be re-allocated to the remaining zones. The revised allocation of commercial zone quotas for Gulf migratory group king mackerel would be: 40 percent in the western zone, 18 percent in the northern zone, 21 percent for the southern zone using hook-and-line gear, and 21 percent for the southern zone using gillnet gear.

The proposed commercial quotas for the Gulf western zone would be: 1,180,000 lb (535,239 kg) for the 2016-2017 fishing year, 1,136,000 lb (515,281 kg) for the 2017-2018 fishing year, 1,116,000 lb (506,209 kg) for the 2018-2019 fishing year, and 1,096,000 lb (497,137 kg) for the 2019-20 fishing year and subsequent fishing years.

The proposed commercial quotas for the Gulf northern zone would be: 531,000 lb (240,858 kg) for the 2016-2017 fishing year, 511,200 lb (231,876 kg) for the 2017-18 fishing year, 502,200 lb (227,794 kg) for the 2018-2019

fishing year, and 493,200 lb (223,712 kg) for the 2019-2010 fishing year and subsequent fishing years.

The proposed commercial hook-and-line and commercial run-around gillnet component quotas in the southern zone would be equal to each other for each fishing year and would be: 619,500 lb (281,000 kg) for the 2016-2017 fishing year, 596,400 lb (270,522 kg) for the 2017-2018 fishing year, 585,900 lb (265,760 kg) for the 2018-2019 fishing year, and 575,400 lb (260,997 kg) for the 2019-2020 fishing year and subsequent fishing years.

Allocation and the Recreational Bag Limit for Gulf Migratory Group of King Mackerel

From the 2002-2003 fishing year through the 2013-2014 fishing year, the recreational sector's landings of the Gulf migratory group of king mackerel were consistently less than 50 percent of the recreational ACL, while the commercial sector's landings were consistently 90 percent or more of the commercial ACL. In Amendment 26, the Councils considered but rejected, the possibility of reallocating from the recreational ACL to the commercial ACL and instead proposed an increase in the recreational bag limit for Gulf migratory group king mackerel from 2 fish per person per trip to 3 fish per person per trip. The Councils determined that this increased recreational bag

limit would allow more opportunities for recreational anglers to harvest the recreational sector ACL.

A proposed rule that would implement Amendment 26 has been drafted. In accordance with the Magnuson-Stevens Act, NMFS is evaluating the proposed rule to determine whether it is consistent with the FMP, the Magnuson-Stevens Act, and other applicable law. If that determination is affirmative, NMFS will publish a proposed rule in the **Federal Register** for public review and comment.

Consideration of Public Comments

The Councils have submitted Amendment 26 for Secretarial review, approval, and implementation. Comments on Amendment 26 must be received by *[insert date of 60 days after date of publication in the Federal Register]*. Comments received during the respective comment periods, whether specifically directed to the amendment or the proposed rule, will be considered by NMFS in its decision to approve, disapprove, or partially approve Amendment 26.

All comments received by NMFS on the amendment or the proposed rule during their respective comment periods will be addressed in the final rule.

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

Dated: December 9, 2016.

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

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