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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 160426363-7275-02]

RIN 0648-XS010

Coastal Migratory Pelagic Resources of the Gulf of Mexico and Atlantic Region; Commercial Trip Limit Reduction for King Mackerel in the Atlantic Southern Zone

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

ACTION: Temporary rule; trip limit reduction.

SUMMARY: NMFS reduces the commercial trip limit for Atlantic migratory group king mackerel (Atlantic king mackerel) in or from Federal waters in the Atlantic southern zone off the Florida east coast between the border of Flagler and Volusia Counties and the border of Miami-Dade and Monroe Counties to 50 fish per day. This commercial trip limit reduction is necessary to protect the Atlantic king mackerel resource.

DATES: This temporary rule is effective from September 1, 2019, through September 30, 2019.

FOR FURTHER INFORMATION CONTACT: Mary Vara, NMFS Southeast

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SUPPLEMENTARY INFORMATION: The fishery for coastal migratory pelagic fish includes king mackerel, Spanish mackerel, and cobia in the Gulf of Mexico and off the east coast of Florida, 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 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. All weights described for Atlantic migratory group king mackerel (Atlantic king mackerel) apply as either round or gutted weight.

On April 11, 2017, NMFS published a final rule to implement Amendment 26 to the FMP in the **Federal Register** (82 FR 17387). Among other measures, that final rule adjusted the management boundaries, zones, and annual catch limits for Atlantic king mackerel. The commercial quota for Atlantic king mackerel in the southern zone is 3,617,120 lb (1,640,698 kg) for the current fishing year, March 1, 2019, through February 29, 2020 (50 CFR 622.384 (b) (2) (ii)). The seasonal quotas in the southern zone are

2,170,272 lb (984,419 kg) for the period March 1 through September 30 (50 CFR 622.384(b)(2)(ii)(A)), and 1,446,848 lb (656,279 kg) for October 1 through the end of February (50 CFR 622.384(b)(2)(ii)(B)).

The southern zone for Atlantic king mackerel encompasses an area of Federal waters south of a line extending from the state border of North Carolina and South Carolina, as specified in 50 CFR 622.2, and north of a line extending due east from the border of Miami-Dade and Monroe Counties, Florida (50 CFR 622.369(a)(2)(ii)). The area of the southern zone in which this temporary rule applies is in Federal waters south of 29°25' N. lat., which is a line that extends due east from the border of Flagler and Volusia Counties, Florida, and north of 25°20'24" N. lat., which is a line that extends due east from the border of Miami-Dade and Monroe Counties, Florida (50 CFR 622.385(a)(1)(ii)).

From April 1 through September 30, the commercial trip limit for Atlantic king mackerel in Federal waters off the east coast of Florida between the border of Flagler and Volusia Counties, and the border of Miami-Dade and Monroe Counties that may be possessed on board or landed from a federally permitted vessel is 75 fish per day (50 CFR 622.385(a)(1)(ii)(B)).

However, if during this period NMFS determines that 75 percent of the commercial quota in the Atlantic southern zone specified in 50 CFR 622.384(b)(2)(ii)(A) has been harvested, then the commercial trip limit for king mackerel in or from this area that may be possessed on board or landed from a federally permitted vessel is reduced to 50 fish per day (50 CFR 622.385(a)(1)(ii)(B)).

NMFS has determined that for the 2019-2020 fishing year, 75 percent of the March 1 through the September 30 commercial quota for Atlantic king mackerel in the southern zone will be harvested by September 1, 2019. Accordingly, a 50-fish commercial trip limit applies to vessels fishing for king mackerel in or from Federal waters south of 29°25' N. lat. and north of 25°20'24" N. lat. off the east coast of Florida in the Atlantic southern zone effective from September 1, 2019, through September 30, 2019. On October 1, 2019, the new seasonal commercial quota will be in effect and a commercial trip limit of 50 fish will continue for this area.

Classification

The Regional Administrator for the NMFS Southeast Region has determined this temporary rule is necessary for the conservation and management of Atlantic king mackerel and is

consistent with the Magnuson-Stevens Act and other applicable laws.

This action is taken under 50 CFR 622.385(a) (1) (ii) (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 scientific information available. The Assistant Administrator for NOAA Fisheries (AA) finds that the need to immediately implement this commercial trip limit reduction 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), because prior notice and opportunity for public comment on this temporary rule is unnecessary and contrary to the public interest. Such procedures are unnecessary because the rule establishing the commercial trip limits has already been subject to notice and comment, and all that remains is to notify the public of the trip limit reduction. Such procedures are contrary to the public interest because of the need to immediately implement this action to protect the Atlantic king mackerel stock. The capacity of the fishing fleet allows for

more rapid harvest of the commercial quota under the greater trip limit. Prior notice and opportunity for public comment would require time and could potentially result in a harvest 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 this action, pursuant to 5 U.S.C. 553(d) (3).

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

Dated: August 27, 2019.

Jennifer M. Wallace,
Acting Director,
Office of Sustainable Fisheries,
National Marine Fisheries Service.