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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 140819687-5583-02]

RTID 0648-XS022

Coastal Migratory Pelagic Resources of the Gulf of Mexico and Atlantic Region; 2019-2020 Commercial Trip Limit Reduction for Spanish 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 of Atlantic migratory group Spanish mackerel in the southern zone of the Atlantic exclusive economic zone (EEZ) to 500 lb (227 kg) in round or gutted weight per day. This commercial trip limit reduction is necessary to maximize the socioeconomic benefits of the fishery.

DATES: This temporary rule is effective from 6 a.m. eastern time on January 29, 2020, until 12:01 a.m. eastern time on March 1, 2020.

FOR FURTHER INFORMATION CONTACT: Mary Vara, NMFS Southeast

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SUPPLEMENTARY INFORMATION: The fishery for coastal migratory pelagic fish in the Atlantic includes king mackerel, Spanish mackerel, and cobia on 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 the Atlantic migratory group of Spanish mackerel (Atlantic Spanish mackerel) apply as either round or gutted weight.

For management purposes, the commercial sector of Atlantic Spanish mackerel is divided into northern and southern zones. The southern zone consists of Federal waters off South Carolina, Georgia, and the east coast of Florida. The southern zone boundaries for Atlantic Spanish mackerel extend from the border of North Carolina and South Carolina (which is a line extending in a direction of 135°34'55" from true north beginning at 33°51'07.9" N. lat. and 78°32'32.6" W. long. to the intersection

point with the outward boundary of the EEZ) to the border of Miami-Dade and Monroe Counties, Florida (at 25°20'24" N. lat.).

The southern zone commercial quota for Atlantic Spanish mackerel is 2,667,330 lb (1,209,881 kg). Seasonally variable trip limits are based on an adjusted commercial quota of 2,417,330 lb (1,096,482 kg). The adjusted commercial quota is calculated to allow continued harvest in the southern zone at a set rate for the remainder of the current fishing year, through February 29, 2020, in accordance with regulations at 50 CFR 622.385 (b) (2).

NMFS reduced the commercial trip limit for Atlantic Spanish mackerel in or from the southern zone to 1,500 lb (680 kg) on December 24, 2019 (84 FR 70904, December 26, 2019). That temporary rule is effective through end of the fishing year, or until the commercial trip limit is reduced to 500 lb (227 kg) when 100 percent of the adjusted quota is reached or is projected to be reached, whichever occurs first. NMFS has determined that 100 percent of the adjusted commercial quota for Atlantic Spanish mackerel has been reached and is reducing the commercial trip limit. Atlantic Spanish mackerel in or from the southern zone may not be possessed on board or landed from a vessel with a Federal commercial permit for Atlantic Spanish

mackerel in amounts exceeding 500 lb (227 kg) per day (50 CFR 622.385(b)(1)(ii)(C)).

The commercial trip limit of 500 lb (227 kg) per day applies to Atlantic Spanish mackerel in or from the southern zone effective at 6 a.m. eastern time on January 29, 2020, until 12:01 a.m. eastern time on March 1, 2020, unless changed by subsequent notification in the **Federal Register**.

Classification

The Regional Administrator for the NMFS Southeast Region has determined this temporary rule is necessary for the conservation and management of Atlantic Spanish mackerel and is consistent with the FMP, the Magnuson-Stevens Act, and other applicable laws.

This action is taken under 50 CFR 622.385(b)(1)(ii)(C) 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 opportunity for comment.

This action responds to the best scientific information available. The Assistant Administrator for NOAA Fisheries (AA) finds that the need to immediately reduce the trip limit for

the commercial sector for Atlantic Spanish mackerel constitutes good cause to waive the requirements to provide prior notice and the opportunity for public comment pursuant to 5 U.S.C. 553(b) (B) as such procedures are unnecessary and contrary to the public interest. Such procedures are unnecessary because the rules implementing the commercial quotas and trip limits have already been subject to notice and comment, and all that remains is to notify the public of the trip limit reduction.

Prior notice and opportunity for public comment is contrary to the public interest, because any delay in the trip limit reduction of the commercial harvest could result in the commercial quota being exceeded. There is a need to immediately implement this action to protect the Atlantic Spanish mackerel resource, because the capacity of the fishing fleet allows for rapid harvest of the commercial quota. Prior notice and opportunity for public comment would require additional time and could 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 this action under 5 U.S.C. 553(d) (3) .

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

Dated: January 24, 2020.

Karyl K. Brewster-Geisz,
Acting Director, Office of Sustainable Fisheries,
National Marine Fisheries Service

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