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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 160426363-7275-02]

RIN 0648-XG762

Coastal Migratory Pelagic Resources of the Gulf of Mexico and Atlantic Region; Commercial Trip Limit Increase 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 increase.

SUMMARY: NMFS increases the commercial trip limit for king mackerel in or from Federal waters in an area off the Florida east coast between the border of Flagler and Volusia Counties and the border of Miami-Dade and Monroe Counties in the Atlantic southern zone to 75 fish per day. This commercial trip limit increase is necessary to maximize the socioeconomic benefits associated with harvesting the commercial quota of Atlantic migratory group king mackerel.

DATES: This temporary rule is effective from 12:01 a.m., local time, on February 7j, 2019, through February 28, 2019.

FOR FURTHER INFORMATION CONTACT: Karla Gore, NMFS Southeast Regional Office, telephone: 727-824-5305, email: *karla.gore@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 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 for Atlantic migratory group king mackerel (Atlantic king mackerel) below 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). 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 4,001,920 lb (1,815,240 kg) for the current fishing year, March 1, 2018, through February 28, 2019 (50 CFR 622.384(b)(2)(ii)). The seasonal quotas are 2,401,152 lb (1,089,144 kg) for the

period March 1 through September 30 (50 CFR 622.384(b)(2)(ii)(A)), and 1,600,768 lb (726,096 kg) for October 1 through the end of February (50 CFR 622.384(b)(2)(ii)(B)).

The Atlantic king mackerel southern zone 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)). From October 1 through January 31, the commercial trip limit for king mackerel in or from the southern zone that may be possessed on board or landed from a federally permitted vessel is 50 fish per day (50 CFR 622.385(a)(1)(ii)(C)).

However, if NMFS determines that less than 70 percent of the Atlantic southern zone commercial quota specified in 50 CFR 622.384(b)(2)(ii)(B) has been harvested by February 1, then during the month of February, the commercial trip limit for king mackerel in or from a specified area of the southern zone that may be possessed on board or landed from a federally permitted vessel is increased to 75 fish per day (50 CFR 622.385(a)(1)(ii)(D)). The area of the southern zone in which

the commercial trip limit increase 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.

NMFS has determined that less than 70 percent of the October 1 through the end of February commercial quota for Atlantic king mackerel in the southern zone was harvested by February 1, 2019. Accordingly, a 75-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 at 12:01 a.m., local time, on February 7, 2019. The 75-fish trip limit will remain in effect through February 28, 2019, or until the commercial quota is reached and the southern zone closes. On March 1, 2019, the new fishing year begins and a commercial trip limit of 50 fish will again be in effect 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)(D) 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 increase 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 increase. Such procedures are contrary to the public interest, because prior notice and opportunity for public comment would require time and delay the fishers' ability to catch more king mackerel to harvest the

commercial quota and achieve optimum yield, and would prevent fishers from reaping the socioeconomic benefits associated with this increased commercial trip limit.

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: February 1, 2019.

Alan D. Risenhoover,
Director, Office of Sustainable Fisheries,
National Marine Fisheries Service.

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