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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 191008-0058]

RIN 0648-BJ17

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagics Resources in the Gulf of Mexico and Atlantic Region; Control Date

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

ACTION: Advanced notice of proposed rulemaking; consideration of a control date.

SUMMARY: This document announces the establishment of a control date of March 7, 2019, for the commercial sector of Spanish mackerel. The South Atlantic Fishery Management Council (South Atlantic Council) may use the control date if it decides to create restrictions limiting participation in the commercial sector for Spanish mackerel. The Gulf of Mexico Fishery Management Council (Gulf Council) would also need to approve any restrictions to the Federal commercial Spanish mackerel permit. Anyone entering the sector after the control date would not be assured of future access should a management program that limits participation in

the sector be prepared and implemented. This announcement is intended, in part, to promote awareness of the potential eligibility criteria for future access to discourage speculative entry into the Spanish mackerel commercial sector while the South Atlantic Council and NMFS consider whether and how access to the sector should be further controlled.

DATES: Written comments must be received by [*insert date 30 days after date of publication in the FEDERAL REGISTER*].

ADDRESSES: You may submit comments identified by "NOAA-NMFS-2019-0083" by either of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2019-0083, click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.

- *Mail:* Submit written comments to Nikhil Mehta, NMFS Southeast Regional Office, 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 the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Nikhil Mehta, NMFS Southeast Regional Office, telephone: 727-824-5305, or e-mail: *nikhil.mehta@noaa.gov*.

SUPPLEMENTARY INFORMATION: The coastal migratory pelagic (CMP) fishery in the Gulf of Mexico and Atlantic regions is managed jointly by the Gulf of Mexico and South Atlantic Fishery Management Councils (Councils). The Fishery Management Plan for Coastal Migratory Pelagic Resources in the Gulf of Mexico and Atlantic Region (FMP) includes king mackerel and Spanish mackerel, and cobia in the Gulf of Mexico. The FMP was prepared by the Councils and is implemented by NMFS through regulations at 50 CFR part 622 under authority of the Magnuson-Stevens Fishery Conservation and Management Act.

Spanish mackerel is not currently overfished or undergoing overfishing. However, as a result of increased commercial effort and exceedance of the commercial annual

catch limit in recent years, the South Atlantic Council requested at their June 2019 meeting that NMFS publish a control date of March 7, 2019, for the Spanish mackerel commercial permit. The final rule for Amendment 2 to the FMP (52 FR 23836; June 25, 1987), established an open access Federal commercial permit for both Atlantic and Gulf of Mexico migratory groups of Spanish mackerel. The control date enables the South Atlantic Council to inform current and potential participants that it is considering creating restrictions that may limit participation in the Spanish mackerel commercial sector. The South Atlantic Council may consider creating a limited access permit system for the Spanish mackerel commercial sector where the number of participants could be restricted through permit limitations to control the amount of effort. Other options may include, but are not limited to, a limited access gillnet endorsement in the Atlantic southern zone (North Carolina/South Carolina boundary to the Miami-Dade/Monroe County, Florida, boundary), and collaboration with state agencies.

This document informs participants who enter the commercial sector for Spanish mackerel after March 7, 2019, that they may not be ensured participation under future management of this portion of the CMP fishery. If the South

Atlantic Council decides to restrict participation in the Spanish mackerel commercial sector in relation to this control date, an amendment to the FMP with analysis of specific biological, economic, and social effects will be prepared at that time. Any future amendment addressing modifications to the Spanish mackerel commercial permit in relation to this control date would require approval by both Councils.

In addition to an amendment to the FMP, implementation of any such changes would require publication of a notice of availability and proposed rule in the **Federal Register** with public comment periods, and, if approved by the Secretary of Commerce, issuance of a final rule.

Fishermen are not guaranteed future participation in a fishery or sector regardless of their entry date or intensity of participation in the fishery or sector before or after the control date under consideration. The South Atlantic Council subsequently may choose a different control date or a different management program without using a control date. The South Atlantic Council also may choose to take no further action to control entry or access to the Spanish mackerel commercial sector.

NMFS invites comments on the establishment of this control date. This notification also gives the public

notice that interested participants should locate and preserve records that substantiate and verify their participation in the Spanish mackerel commercial sector.

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

Dated: October 8, 2019.

Samuel D. Rauch III,
Deputy Assistant Administrator for Regulatory
Programs,
National Marine Fisheries Service.

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