

(f) Issuance of an LOA shall be based on a determination that the level of taking shall be consistent with the findings made for the total taking allowable under these regulations.

(g) Notice of issuance or denial of an LOA shall be published in the **Federal Register** within 30 days of a determination.

#### **§ 218.67 Renewals and modifications of Letters of Authorization.**

(a) An LOA issued under § 216.106 of this chapter and § 218.66 for the activity identified in § 218.60(a) shall be renewed or modified upon request by the applicant, provided that:

(1) The specified activity and mitigation, monitoring, and reporting measures, as well as the anticipated impacts, are the same as those described and analyzed for these regulations (excluding changes made pursuant to the adaptive management provision in paragraph (c)(1) of this section); and

(2) NMFS determines that the mitigation, monitoring, and reporting measures required by the previous LOA under these regulations were implemented.

(b) For an LOA modification or renewal request by the applicant that includes changes to the activity or the mitigation, monitoring, or reporting (excluding changes made pursuant to the adaptive management provision in paragraph (c)(1) of this section) that do not change the findings made for the regulations or result in no more than a minor change in the total estimated number of authorized takes (or distribution by species or years), NMFS may publish a notice of proposed LOA in the **Federal Register**, including the associated analysis illustrating the change, and solicit public comment before issuing the LOA.

(c) An LOA issued under § 216.106 of this chapter and § 218.66 for the activity identified in § 218.60(a) may be modified by NMFS under the following circumstances:

(1) Adaptive Management—NMFS may modify (including augment) the existing mitigation, monitoring, or reporting measures (after consulting with Eglin AFB regarding the practicability of the modifications) if doing so creates a reasonable likelihood of more effectively accomplishing the goals of the mitigation and monitoring set forth in the preamble for these regulations;

(2) Possible sources of data that could contribute to the decision to modify the mitigation, monitoring, or reporting measures in an LOA are:

(i) Results from Eglin AFB's annual monitoring reports;

(ii) Results from other marine mammal and sound research or studies; or

(iii) Any information that reveals marine mammals may have been taken in a manner, extent or number not authorized by these regulations or subsequent LOAs.

(3) If, through adaptive management, the modifications to the mitigation, monitoring, or reporting measures are substantial, NMFS will publish a notice of proposed LOA in the **Federal Register** and solicit public comment.

(4) Emergencies—If NMFS determines that an emergency exists that poses a significant risk to the well-being of the species or stocks of marine mammals specified under LOAs issued pursuant to § 216.106 of this chapter and § 218.60, an LOA may be modified without prior notice or opportunity for public comment. Notice would be published in the **Federal Register** within 30 days of the action.

#### **§§ 218.68–218.69 [Reserved]**

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## **DEPARTMENT OF COMMERCE**

### **National Oceanic and Atmospheric Administration**

#### **50 CFR Part 622**

[Docket No. 160426363–7275–02]

**RIN 0648–XG009**

#### **Coastal Migratory Pelagic Resources of the Gulf of Mexico and Atlantic Region; Commercial Trip Limit Increase 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, February 5, 2018, through February 28, 2018.

#### **FOR FURTHER INFORMATION CONTACT:**

Frank Helies, NMFS Southeast Regional Office, telephone: 727–824–5305, email: [frank.helies@noaa.gov](mailto:frank.helies@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 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 migratory group king mackerel (Atlantic king mackerel). The commercial quota for Atlantic king mackerel in the southern zone is 4,540,640 lb (2,059,600 kg) for the current fishing year, March 1, 2017, through February 28, 2018 (50 CFR 622.384(b)(2)(ii)).

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)(2)(i)(A)).

However, if NMFS determines that less than 70 percent of the Atlantic southern zone commercial quota 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 commercial quota for Atlantic king mackerel in the southern zone was harvested by February 1, 2018. 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, February 5, 2018. The 75-fish trip limit will remain in effect through February 28, 2018, or until the commercial quota is reached and the southern zone closes. On March 1, 2018, 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 5, 2018.

**Alan D. Risenhoover,**

*Director, Office of Sustainable Fisheries,  
National Marine Fisheries Service.*

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