

# Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents.

## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Part 17

#### Confidentiality of Certain Medical Records Under the MISSION Act

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Notification of change to agency practice.

**SUMMARY:** This Department of Veterans Affairs (VA) document provides an update to VA's requirements for obtaining a signed release of information for third party billing practices from VA beneficiaries with a sensitive diagnosis under the United States Code to align with the amendments made by the VA MISSION Act of 2018.

**DATES:** Effective January 28, 2019.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Adams, Office of Community Care (10D), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, [Jennifer.Adams26@va.gov](mailto:Jennifer.Adams26@va.gov), (615) 355-1539. This is not a toll free number.

**SUPPLEMENTARY INFORMATION:** On June 6, 2018, section 132 of Public Law 115-182, the John S. McCain III, Daniel K. Akaka, and Samuel R. Johnson VA Maintaining Internal Systems and Strengthening Integrated Outside Networks Act of 2018 (MISSION Act), amended 38 U.S.C. 7332,

*Confidentiality of certain medical records*, which protects certain sensitive diagnoses (*i.e.*, drug abuse, alcoholism or alcohol abuse, infection with the human immunodeficiency virus, or sickle cell anemia) from being disclosed unless expressly authorized by the patient. The VA Mission Act of 2018 amended section 7332 by providing a new exception to the requirement that a patient must expressly authorize VA to disclose medical records containing a sensitive diagnosis. The exception removed VA's requirement when VA is

billing a third-party for medical care cost recovery.

In addition to this document, VA will announce these changes on Veteran-facing websites to reach as many VA beneficiaries as possible. VA will also conduct a briefing with Veteran Service Organizations to ensure they are informed of the changes. For any VA beneficiary who has previously signed a release of information declining to allow VA to bill encounters containing a sensitive diagnosis, VA will provide a one-time notification prior to submitting claims with a sensitive diagnosis to a third-party health insurer. The written notification will include a summary of the new law, how the change affects the patient, and a description of the types of services affected by the change.

After all of the aforementioned notifications are complete, VA will begin submitting claims to health insurance companies for encounters with dates of service on or after the publication date of this document in the **Federal Register** that contain a sensitive diagnosis without a signed release of information. While VA's billing authorities allow for a window of up to 6 years to bill a health insurance company for services provided, VA will not pursue any back billing for these services unless a signed Request For and Authorization to Release Medical Records or Health Information (VHA-10-5345) form for such release has been received from the patient. All required payer policies still apply to any services submitted for reimbursement.

#### Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Robert L. Wilkie, Secretary, Department of Veterans Affairs, approved this document on December 21, 2018, for publication.

Dated: December 21, 2018.

**Luvenia Potts,**

*Program Specialist, Office of Regulation Policy & Management, Office of the Secretary, Department of Veterans Affairs.*

[FR Doc. 2018-28285 Filed 1-25-19; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 622

[Docket No. 101206604-1758-02]

RIN 0648-XG732

#### Coastal Migratory Pelagic Resources of the Gulf of Mexico and Atlantic Region; 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 or from the exclusive economic zone (EEZ) in the southern zone to 500 lb (227 kg) per day. This trip limit reduction is necessary to maximize the socioeconomic benefits of the commercial quota for the southern zone.

**DATES:** This rule is effective from 6 a.m., local time, January 27, 2019, until 12:01 a.m., local time, March 1, 2019.

**FOR FURTHER INFORMATION CONTACT:** Mary Vara, NMFS Southeast Regional Office, telephone: 727-824-5305, or email: [mary.vara@noaa.gov](mailto:mary.vara@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 South Atlantic (FMP). The FMP was prepared by the Gulf of Mexico and South Atlantic Fishery Management Councils and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622. All weights in this temporary rule apply as either round or gutted weight.

Framework Amendment 1 to the FMP (79 FR 69058; November 20, 2014) implemented a commercial annual catch limit (equal to the commercial quota) of 3.33 million lb (1.51 million kg) for the Atlantic migratory group of

Spanish mackerel. Atlantic migratory group Spanish mackerel (Spanish mackerel) are divided into a northern and southern zone for management purposes. The southern zone consists of Federal waters off South Carolina, Georgia, and Florida. The northern boundary for the southern zone for Spanish mackerel extends from the state border of North Carolina and South Carolina along a line beginning at 33°51'07.9" N lat. and 78°32'32.6" W long. and extending in a direction of 135°34'55" from true north to the intersection point with the outward boundary of the EEZ. The southern boundary for the southern zone is 25°20'24" N lat., which is the boundary between Miami-Dade and Monroe Counties, Florida.

The southern zone commercial quota for Spanish mackerel is 2,667,330 lb (1,209,881 kg). Seasonally variable commercial 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 28, 2019, in accordance with 50 CFR 622.385(b)(2).

On December 27, 2018, NMFS published a temporary rule in the **Federal Register** to reduce the commercial trip limit for Spanish mackerel in or from the Atlantic EEZ in the southern zone to 1,500 lb (680 kg) (83 FR 66635). The temporary rule was effective at 6 a.m., local time, December 26, 2018, until 12:01 a.m., local time, March 1, 2019, or until the commercial trip limit is reduced to 500 lb (227 kg) when 100 percent of the adjusted quota

is reached or projected to be reached, whichever occurs first.

As specified at 50 CFR 622.385(b)(1)(ii)(C), after 100 percent of the adjusted commercial quota of Spanish mackerel is reached or projected to be reached, Spanish mackerel in or from the EEZ in the southern zone may not be possessed on board or landed from a vessel with a Federal commercial permit for Spanish mackerel in amounts exceeding 500 lb (227 kg) per day.

NMFS has determined that 100 percent of the adjusted commercial quota for Spanish mackerel has been reached. Accordingly, the commercial trip limit of 500 lb (227 kg) per day applies to Spanish mackerel in or from the EEZ in the southern zone effective at 6 a.m., local time January 27, 2019, until 12:01 a.m., local time, March 1, 2019, 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 Spanish mackerel and is consistent with 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 NOAA Assistant Administrator for Fisheries (AA) finds that the need to

immediately reduce the trip limit for the commercial sector for 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 for the commercial harvest of Spanish mackerel could result in the commercial quota being exceeded. There is a need to immediately implement this action to protect the 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 23, 2019.

**Samuel D. Rauch III,**

*Deputy Assistant Administrator for  
Regulatory Programs, National Marine  
Fisheries Service.*

[FR Doc. 2019-00225 Filed 1-23-19; 4:15 pm]

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