

**SUPPLEMENTARY INFORMATION:** The fishery for coastal migratory pelagic fish (king mackerel, Spanish mackerel, cero, cobia, little tunny, and, in the Gulf of Mexico (Gulf) only, dolphin and bluefish) 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 (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.

On April 27, 2000, NMFS implemented the final rule (65 FR 16336, March 28, 2000) that divided the Florida west coast subzone of the Gulf of Mexico eastern zone into northern and southern subzones, and established their separate commercial quotas. The northern Florida west coast subzone is located in Federal waters of the Gulf north of 26°19.8' N lat. (a line directly west from the Lee/Collier County, FL boundary) and east of 87°31.1' W long. (a line directly south from the Alabama/Florida boundary). The quota for the northern subzone is 168,750 lb (76,544 kg) (50 CFR 622.42(c)(1)(ii)).

In accordance with 50 CFR 622.44(a)(2)(ii)(B)(2), from the date that 75 percent of the northern Florida west coast subzone's quota has been harvested until a closure of the subzone has been effected or the fishing year ends, king mackerel in or from the EEZ may be possessed on board or landed from a permitted vessel in amounts not exceeding 500 lb (227 kg) per day.

NMFS has determined that 75 percent of the quota for Gulf group king mackerel from the northern Florida west coast subzone has been reached. Accordingly, a 500-lb (227-kg) trip limit applies to vessels harvesting commercial quantities of king mackerel in or from the EEZ in the northern Florida west coast subzone effective 12:01 a.m., local time, October 26, 2010. The 500-lb (227-kg) trip limit will remain in effect until the northern Florida west coast subzone closes or until the end of the current fishing year (June 30, 2011), whichever occurs first.

#### Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, (AA), finds the need to immediately implement this commercial trip limit reduction 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), as such procedures would be unnecessary and contrary to the public interest. Such procedures would be unnecessary because the rule itself already has been subject to notice and comment, and all that remains is to notify the public of the trip limit reduction.

Allowing prior notice and opportunity for public comment is contrary to the public interest because of the need to immediately implement this action to protect the fishery resource because the capacity of the commercial fleet allows for rapid harvest of the quota. Prior notice and opportunity for public comment would require time and potentially result in a harvest well in excess of the established 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).

This action is taken under 50 CFR 622.43(a) and is exempt from review under Executive Order 12866.

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

Dated: October 21, 2010.

**Carrie Selberg,**

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

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 900124-0127]

RIN 0648-XZ16

#### Fisheries of the Northeastern United States; Atlantic Surfclam and Ocean Quahog Fisheries; Suspension of Minimum Atlantic Surfclam Size Limit for Fishing Year 2011

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

**ACTION:** Temporary rule; suspension of the Atlantic surfclam minimum size limit.

**SUMMARY:** NMFS suspends the minimum size limit for Atlantic surfclams for the 2011 fishing year. This action is taken under the authority of the implementing regulations for this fishery, which allow for the annual suspension of the minimum size limit based upon set criteria. The intended

effect is to relieve the industry from a regulatory burden that is not necessary, as the majority of surfclams harvested are larger than the minimum size limit.

**DATES:** Effective January 1, 2011, through December 31, 2011.

**ADDRESSES:** Written inquiries may be sent to: Regional Administrator, National Marine Fisheries Service, Northeast Regional Office, 55 Great Republic Drive, Gloucester, MA 01930-2298.

**FOR FURTHER INFORMATION CONTACT:** Anna Macan, Fishery Management Specialist, (978) 281-9165; fax (978) 281-9135.

**SUPPLEMENTARY INFORMATION:** Section 648.72(c) of the regulations implementing the Fishery Management Plan (FMP) for the Atlantic Surfclam and Ocean Quahog Fisheries authorizes the Administrator, Northeast Region, NMFS (Regional Administrator), to suspend annually, by publication of a notification in the **Federal Register**, the minimum size limit for Atlantic surfclams. This action may be taken unless discard, catch, and biological sampling data indicate that 30 percent of the Atlantic surfclam resource is smaller than 4.75 inches (120 mm) and the overall reduced size is not attributable to harvest from beds where growth of the individual clams has been reduced because of density-dependent factors.

At its June 2010 meeting, the Mid-Atlantic Fishery Management Council voted to recommend that the Regional Administrator suspend the minimum size limit for the 2011 fishing year. Commercial surfclam data for 2010 were analyzed to determine the percentage of surfclams that were smaller than the minimum size requirement. The analysis indicated that 8.10 percent of the overall commercial landings were composed of surfclams that were less than 4.75 inches (120 mm). Based on these data, the Regional Administrator adopts the Council's recommendation and suspends the minimum size limit for Atlantic surfclams from January 1 through December 31, 2011.

#### Classification

This action is authorized by 50 CFR part 648 and is exempt from review under Executive Order 12866.

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

Dated: October 21, 2010.

**Carrie Selberg,**

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

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