



SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL

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Jessica McCawley, Chair | Mell Bell, Vice Chair
John Carmichael, Executive Director

June 30, 2020
LN# 202043

Dr. Roy Crabtree, Regional Administrator
NOAA Fisheries, Southeast Regional Office
263 13th Avenue South
St. Petersburg, FL 33701

Dear Dr. Crabtree:

The South Atlantic Fishery Management Council (Council) requests that the National Marine Fisheries Service (NMFS) initiate emergency action pursuant to Section 305(c)(2)(B) of the Magnuson-Stevens Fishery Conservation and Management Act, as reauthorized, to adjust the recreational King Mackerel bag limit, as established in a 1995 Framework Action to the Fishery Management Plan (FMP) for Coastal Migratory Pelagic Resources (CMP) in the Gulf of Mexico and Atlantic Region ([60 FR 57686](#)). The Council requests an increase in the recreational trip limit from 3-fish per person to 4-fish per person in federal waters from the New York/Connecticut/Rhode Island line to the Georgia/Florida line. Additionally, the Council requests an increase in the recreational bag limit from two-fish per person to four-fish per person in federal waters from the Georgia/Florida line to the Miami-Dade/Monroe county line, Florida. The Council considers this change necessary to address economic losses to the charter fishing industry and adverse impacts to the recreational fishing community that have resulted from the recent pandemic.

On March 11, 2020, the World Health Organization declared a global pandemic. In the United States, pandemic related closures began mid-March, resulting in unprecedented challenges to fishing businesses and communities. South Atlantic stakeholders have indicated that pandemic-related fear of traveling and restricted access to public beaches, marinas, and piers has caused many businesses and communities to suffer economic hardships.

The NMFS Policy Guidelines for the Use of Emergency Rules (62 FR 44421, August 21, 1997) list three criteria for determining whether an emergency exists: (1) recent, unforeseen events or recently discovered circumstances; and (2) serious conservation or management problems in the fishery; and (3) emergency regulations outweigh the value of advance notice, public comment, and deliberative consideration of the impacts to the same extent as would be expected under the normal rulemaking process.

This emergency rule is requested due to the recent and unforeseen negative consequences of the pandemic. Recreational fishing effort has been impacted by travel bans, closure of fishing access points, and social distancing guidelines. Some areas that rely heavily on for-hire fishing and the tourism trade, such as Dare County, North Carolina, were completely closed to non-residents for

April and May 2020. Reports from stakeholders, preliminary information on headboat effort reviewed by the Council at their June 2020 meeting, and preliminary effort estimates from the Marine Recreational Information Program (MRIP) for Wave 2 (March and April) all indicate effort in the for-hire sector in particular has been severely reduced by the pandemic response. For example, the preliminary effort estimates from MRIP for the South Atlantic charter mode indicate the number of trips in 2020 was down by nearly 90% when compared to 2018 and 2019.

The unforeseen impacts of the pandemic on fishing activities have created a management issue by making it more difficult to achieve optimum yield and obtain the intended social and economic benefits associated with the recreational annual catch limit (ACL). The pandemic caused for-hire business to forego economic opportunities and private recreational fishermen to forego social opportunities. An increased bag limit may allow businesses and fishermen to recover these missed opportunities. For example, a higher bag limit may serve as a selling point for for-hire businesses and thereby enable them to book more trips.

The Council determined that the benefits to Atlantic King Mackerel fishermen of implementing a new recreational bag limit through an emergency rule outweigh the value of normal rulemaking. The time to complete normal notice-and-comment rulemaking would not allow for an increase in the bag limit for the 2020/2021 season and would prevent economic and social benefits to fishing industry participants and communities. The public was provided an opportunity to comment on management responses to the pandemic at the June 2020 Council meeting.

Since 2011, recreational landings of Atlantic King Mackerel have averaged less than 40% of the recreational ACL, suggesting that increasing the bag limit does not pose excessive risk of exceeding the ACL. Data from 2015 through 2017 were used to evaluate the impacts of the requested increased possession limit. If fishermen took advantage of the increased bag limit, average landings during the period would have increased by 7% coastwide (NY/CT/RI line to the Miami-Dade/Monroe county line, Florida) compared to recent fishing years (**Table 1**).

Table 1. Estimated increase in Atlantic King Mackerel landings from increasing the bag limit to 4-fish per person coastwide.

Fishing Year	Current Landings (lbs)	Added Landings (lbs)	New Landings Total (lbs)	Percent Increase
2015-2016	1,370,760	117,124	1,487,884	8.5%
2016-2017	2,272,232	132,250	2,404,482	5.8%
2017-2018	1,976,493	146,702	2,123,195	7.4%
Average	1,873,162	132,025	2,005,187	7.0%

Source: SEFSC

Considering that in recent years the recreational sector is only harvesting 40% of its ACL, and the slight increase in landings estimated from the increased bag limit, increasing the recreational bag limit to four-fish per person coastwide is unlikely to result in landings meeting or exceeding the recreational Atlantic King Mackerel ACL. As a result, negative biological effects to the stock would not be expected. However, increasing the recreational bag limit may have positive economic and social effects if it provides an incentive for anglers to take more fishing trips and serves as a selling point for the for-hire industry. Higher bag limits that result in an increased

number of for-hire trips could have positive indirect effects on coastal communities by providing more job opportunities for crew and more purchases of bait, tackle, ice, and fuel. The Mackerel Cobia Advisory Panel discussed recreational fishing concerns at their October 2019 meeting and passed a motion recommending that the Florida bag limit for Atlantic King Mackerel be increased from two to three fish to match the rest of the coast. They also talked about increasing the overall bag limit coastwide but did not make or pass any motions to that point.

The Council concluded that the requested change in the recreational bag limit will not increase the risk of overfishing for the stock. Additionally, the recently completed update to the SEDAR 38 stock assessment indicates the stock is neither overfished nor experiencing overfishing. Because recreational Atlantic King Mackerel landings have not reached the ACL in recent years, and the 2020/2021 fishing season recreational ACL for Atlantic King Mackerel of 8 million pounds is well above both recent recreational landings and expected landings if the bag limit change is implemented, the Council concluded it is unlikely that increasing the bag limit will result in the recreational ACL being exceeded. Nonetheless, the ACL and accountability measures will remain in place to constrain harvest and prevent overfishing.

We appreciate your assistance in expediting implementation of this request as soon as possible. If you require any additional information, please do not hesitate to contact John Carmichael or Christina Wiegand.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Jessica McCawley', with a stylized flourish at the end.

Jessica McCawley, Chair

cc: Council Members & Staff, SAFMC
Mackerel Cobia Advisory Panel, SAFMC
Jack McGovern & Rick DeVactor SERO
Monica Smit-Brunello, NOAA GC
Chris Oliver, NMFS