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Dated: November 1, 2005.

Craig Manson,

Assistant Secretary for Fish and Wildlife and Parks.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 051031284–5284–01; I.D. 102605B]

RIN 0648–AT64

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources of the Atlantic; Commercial Spanish Mackerel Fishery of the Atlantic; Control Date

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

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

SUMMARY: This notice announces the South Atlantic Fishery Management Council (SAFMC) is considering additional management measures to limit entry into the commercial fishery for Spanish mackerel in the exclusive economic zone of the Atlantic (South Atlantic EEZ). Possible measures include the establishment of a limited entry program to control participation or effort in the commercial Spanish mackerel fishery in the Atlantic. If a limited entry program is established, the SAMFC is considering June 15, 2004, as a possible control date.

DATES: Comments must be submitted by December 9, 2005.

ADDRESSES: You may submit comments by any of the following methods:

- E-mail: *0648–AT64.ANPR@noaa.gov*. Include in the subject line of the e-mail comment the following document identifier: 0648–AT64.
- Federal e-Rulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.
- Mail: Steve Branstetter, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.
- Fax: 727–824–5308.

FOR FURTHER INFORMATION CONTACT: Steve Branstetter, 727–824–5305.

SUPPLEMENTARY INFORMATION: The commercial fishery for Spanish mackerel in the Atlantic EEZ is managed under the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Atlantic and Gulf of Mexico (FMP). The FMP was prepared jointly by the SAFMC and the Gulf of Mexico Fishery Management Council (GMFMC) and implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act.

The SAFMC anticipates that future action may be necessary to control effort in the Atlantic Spanish mackerel fishery by restricting the number of participants. The SAFMC has concerns about increasing fishing effort in the Atlantic EEZ and wants to prevent the possibility of the development of excess harvesting capacity for the Spanish mackerel fishery of the region. Should the SAFMC and GMFMC take future action to restrict participation in the fishery, they may use June 15, 2004, as a possible control date. This control date would replace an existing control date of July 2, 1993 (58 FR 35914, July 2, 1993). Implementation of any program to restrict access in the Atlantic Spanish mackerel fishery would require preparation of an amendment to the FMP and publication of a notice of availability of the amendment with a comment period, publication of a proposed rule with a public comment period, approval of the amendment, and issuance of a final implementing rule.

Consideration of a control date does not commit the SAFMC, GMFMC, or NMFS to any particular management regime or criteria for entry into the commercial Spanish mackerel fishery. Fishermen are not guaranteed future participation in a fishery regardless of their entry date or intensity of participation in the fishery before or after the control date under consideration. Use of the control date in future management actions would mean that anyone entering the fishery after the control date would not be assured of future access. Nevertheless, even fishermen who are permitted prior to the control date also are not guaranteed future participation in a fishery. The SAFMC may choose to give variably weighted consideration to fishermen active in the fishery before and after the control date. Other qualifying criteria, such as documentation of landings and sales, may be applied for entry into the fishery. The SAFMC subsequently may choose a different control date, or they may choose a management regime without using a control date. The SAFMC also may choose to take no further action to control entry or access to the fishery, in which case the control date may be rescinded.

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

Dated: November 4, 2005.

James W. Balsiger,

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

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