

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 622**

[Docket No. 110803468–1612–01]

RIN 0648–BB33

**Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources in the Gulf of Mexico and Atlantic Region; Amendment 18**

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

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** NMFS proposes regulations to implement Amendment 18 to the Fishery Management Plan for the Coastal Migratory Pelagic Resources in the Gulf of Mexico and Atlantic Region (FMP), as prepared and submitted by the Gulf of Mexico (Gulf) and South Atlantic Fishery Management Councils (Councils). If implemented, this rule would remove species from the FMP; modify the framework procedures; establish two migratory groups for cobia; establish annual catch limits (ACLs), annual catch targets (ACTs), and accountability measures (AMs) for king mackerel, Spanish mackerel, and cobia. In addition, Amendment 18 would set allocations for Atlantic cobia and establish control rules for king mackerel, Spanish mackerel, and cobia. The intent of this rule is to specify ACLs for species not undergoing overfishing while maintaining catch levels consistent with achieving optimum yield (OY) for the resource.

**DATES:** Written comments must be received on or before November 21, 2011.

**ADDRESSES:** You may submit comments on the proposed rule identified by “NOAA–NMFS–2011–0202” by any of the following methods:

- *Electronic submissions:* Submit electronic comments via the Federal e-Rulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Mail:* Susan Gerhart, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

*Instructions:* All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All Personal Identifying Information (for example, name, address, etc.)

voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

*To submit comments through the Federal e-Rulemaking Portal:* <http://www.regulations.gov>, click on “submit a comment,” then enter “NOAA–NMFS–2011–0202” in the keyword search and click on “search.” To view posted comments during the comment period, enter “NOAA–NMFS–2011–0202” in the keyword search and click on “search.” NMFS will accept anonymous comments (enter N/A in the required field if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

Comments received through means not specified in this rule will not be considered.

Electronic copies of documents supporting this proposed rule, which include a draft environmental assessment and an initial regulatory flexibility analysis (IRFA), may be obtained from the Southeast Regional Office Web site at <http://sero.nmfs.noaa.gov/sf/MackerelHomepage.htm>.

**FOR FURTHER INFORMATION CONTACT:** Susan Gerhart, telephone: 727–824–5305, or e-mail: [Susan.Gerhart@noaa.gov](mailto:Susan.Gerhart@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The coastal migratory pelagic (CMP) fishery in the Gulf of Mexico (Gulf) and the Atlantic is managed under the FMP. The FMP was prepared by the Councils and implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

**Background**

The 2006 revisions to the Magnuson-Stevens Act require that by 2011, for fisheries determined by the Secretary of Commerce (Secretary) to not be subject to overfishing, ACLs and AMs must be established at a level that prevents overfishing and helps to achieve OY. These mandates are intended to ensure fishery resources are managed for the greatest overall benefit to the nation, particularly with respect to providing food production and recreational opportunities, and protecting marine ecosystems.

Currently two migratory groups of king mackerel and Spanish mackerel are established, Gulf migratory group and Atlantic migratory group. The Gulf Council determines management

measures for the Gulf migratory groups and the South Atlantic Council determines management measures for the Atlantic migratory groups.

**Management Measures Contained in This Proposed Rule**

This rule would remove four species from the FMP; modify the framework procedures; establish two migratory groups for cobia; establish ACLs, ACTs, and AMs for each migratory group of king mackerel, Spanish mackerel, and cobia. In addition, Amendment 18 would set allocations for Atlantic cobia and establish control rules for king mackerel, Spanish mackerel, and cobia.

*Removal of Species From the FMP*

Species currently in the FMP include king mackerel, Spanish mackerel, cobia, cero, little tunny, dolphin, and bluefish (Gulf only). Dolphin in the Atlantic are managed under a different FMP, and bluefish in the Atlantic are managed by the Mid-Atlantic Council. At present, only king mackerel, Spanish mackerel, and cobia have associated regulatory text; the other species are in the FMP for data collection purposes only.

This rule would remove cero, little tunny, dolphin, and bluefish from the FMP. The Councils and NMFS have determined that these species are not in need of Federal management at this time. Although these species are targeted in some areas, landings are relatively low. In addition, the Councils have never managed cero, little tunny, dolphin, or bluefish under the FMP. The species were originally included in the FMP “for data collection purposes,” but data collection on any species can be required of fishermen and dealers that hold Federal permits, regardless of the presence of that species in an FMP. At this time, the Southeast Fisheries Science Center has no plans to remove any species from their data collection programs. If landings or effort change for any of these species and the Councils determine management at the Federal level is needed, these species could be added back into the FMP at a later date.

*Cobia Migratory Groups*

Although there is mixing of cobia from the Gulf and the Atlantic, the preponderance of scientific data indicate that there are at least two separate migratory groups, if not two separate stocks in the Gulf and Atlantic. These two groups have separate seasonal migrations and distinct life history parameters. The Councils have determined they should manage these groups separately within their individual areas of jurisdiction. This

rule would establish two migratory groups for cobia, a Gulf migratory group and an Atlantic migratory group. The boundary would be the line of demarcation between the Gulf EEZ and the South Atlantic EEZ. ACLs and AMs would be established separately for each group by the responsible Council. However, this rule would not change the current possession limit of two cobia per person per day for either commercial or recreational fishermen.

#### *ACLs and AMs*

In 2006, the Magnuson-Stevens Act was re-authorized and included a number of changes to improve the conservation of managed fishery resources. Included in these changes are requirements that fishery management councils establish both a mechanism for specifying ACLs at a level such that overfishing does not occur in a fishery and AMs to mitigate any overages that may occur. Guidance also requires fishery management councils to establish a control rule to determine allowable biological catch (ABC).

The Councils accepted ABC control rules for Gulf migratory groups of king mackerel, Spanish mackerel, and cobia, and for the Atlantic migratory group of cobia, based on the control rule recommended by the Gulf Council's Scientific and Statistical Committee (SSC). They accepted ABC control rules for Atlantic migratory group king mackerel and Spanish mackerel based on the control rule recommended by the South Atlantic Council's SSC. For all species, this rule proposes ACLs equal to the ABC. For purposes of tracking the ACL, for king and Spanish mackerel, landings will be evaluated based on the commercial fishing year. Recreational landings for all Atlantic species will be evaluated based on a moving multi-year average of landings, as described in the FMP.

#### *Gulf Migratory Group King Mackerel*

For Gulf migratory group king mackerel this rule proposes separate ACLs and AMs for the commercial and recreational sectors based on sector allocations.

The commercial sector would close by zone, subzone, or gear type when the commercial quota for the applicable zone, subzone, or gear type is reached or is projected to be reached. In addition, current trip limit adjustments would remain in place. When the commercial sector closes, harvest and possession of king mackerel for the applicable zone, subzone, or gear type would be prohibited for persons aboard a vessel for which a commercial permit for king mackerel has been issued. If

that vessel also has a valid charter vessel/headboat permit on board for CMP species and is operating as a charter vessel or headboat, harvest and possession of king mackerel would be limited to the applicable bag limit. Also, sale and purchase of king mackerel from the closed zone, subzone, or gear type would be prohibited, including king mackerel taken under the bag or possession limits.

For the recreational sector, the Regional Administrator would have the authority to revert the bag and possession limit to zero if the recreational allocation (recreational ACL) is reached or projected to be reached. This bag and possession limit would also apply on board a vessel for which a valid charter vessel/headboat permit has been issued, without regard to where such species were harvested, *i.e.* in state or Federal waters.

#### *Atlantic Migratory Group King Mackerel*

For Atlantic migratory group king mackerel, this rule proposes separate ACLs for the commercial and recreational sectors based on sector allocations. This rule also proposes a stock ACL and an ACT for the recreational sector.

The commercial sector would close when the commercial ACL is reached or projected to be reached. When the commercial sector closes, harvest and possession of king mackerel would be prohibited for persons aboard a vessel for which a commercial permit for king mackerel has been issued. If that vessel also has a valid charter vessel/headboat permit on board for CMP species and is operating as a charter vessel or headboat, harvest and possession of king mackerel would be limited to the applicable bag limit. Also, sale and purchase of king mackerel would be prohibited, including king mackerel taken under the bag or possession limits, without regard to where such species were harvested, *i.e.* in state or Federal waters.

For the recreational sector, if the stock ACL is exceeded in any year, the bag limit would be reduced the next fishing year by the amount necessary to ensure recreational landings may achieve the recreational ACT, but do not exceed the recreational ACL in the following fishing year.

A payback would be assessed if Atlantic migratory group king mackerel are determined to be overfished and the stock ACL is exceeded. The payback would include a reduction in the sector ACL for the following year, by the amount of the overage by that sector in the prior fishing year. Atlantic migratory

group king mackerel are not considered overfished at this time.

#### *Gulf Migratory Group Spanish Mackerel*

For Gulf migratory group Spanish mackerel, this rule proposes stock ACLs and AMs. Both the commercial and recreational sectors would close when the stock ACL is reached or projected to be reached. Harvest, possession, sale, and purchase of Spanish mackerel would be prohibited, without regard to where such species were harvested, *i.e.* in state or Federal waters.

#### *Atlantic Migratory Group Spanish Mackerel*

For Atlantic migratory group Spanish mackerel, this rule proposes separate ACLs for the commercial and recreational sectors based on sector allocations. This rule also proposes an ACT for the recreational sector.

The commercial sector would close when the commercial quota is reached or projected to be reached. In addition, current trip limit adjustments would remain in place. When the commercial sector closes, harvest and possession of Spanish mackerel would be prohibited for persons aboard a vessel for which a commercial permit for Spanish mackerel has been issued. If that vessel also has a valid charter vessel/headboat permit on board for CMP species and is operating as a charter vessel or headboat, harvest and possession of Spanish mackerel would be limited to the applicable bag limit. Also, sale and purchase of Spanish mackerel would be prohibited, including Spanish mackerel taken under the bag or possession limits, without regard to where such species were harvested, *i.e.* in state or Federal waters.

For the recreational sector, if the stock ACL is exceeded in any year, the bag limit would be reduced the next fishing year by the amount necessary to ensure recreational landings may achieve the recreational ACT, but do not exceed the recreational ACL in the following fishing year.

A payback would be assessed if the Atlantic migratory group Spanish mackerel are determined to be overfished and the stock ACL is exceeded. The payback would include a reduction in the sector ACL, for the following year by the amount of the overage by that sector in the prior fishing year. Atlantic migratory group Spanish mackerel are not considered overfished at this time.

#### *Gulf Migratory Group Cobia*

For Gulf migratory group cobia, this rule proposes stock ACLs and AMs. A stock ACT is proposed that is 90 percent

of the ACL. Both the commercial and recreational sectors would close when the stock ACT is reached or projected to be reached. Harvest, possession, sale, and purchase of cobia would be prohibited, without regard to where such species were harvested, *i.e.* in state or Federal waters.

#### *Atlantic Migratory Group Cobia*

For Atlantic migratory group cobia, this rule proposes separate ACLs for the commercial and recreational sectors based on sector allocations. Because sector allocations do not currently exist for cobia, Amendment 18 proposes an allocation of 8 percent of the ACL for the commercial sector and 92 percent of the ACL for the recreational sector, based on landings. This rule also proposes an ACT for the recreational sector.

The commercial sector would close when the commercial ACL is reached or projected to be reached. Sale and purchase of cobia would be prohibited, including cobia taken under the possession limit, without regard to where such species were harvested, *i.e.* in state or Federal waters.

For the recreational sector, if the stock ACL is exceeded in any year, the fishing season would be reduced the following year by the amount necessary to ensure that recreational landings may achieve the recreational ACT, but do not exceed the recreational ACL in the following fishing year.

A payback would be assessed if Atlantic migratory group cobia are determined to be overfished and the stock ACL is exceeded. The payback would include a reduction in the sector ACL for the following year by the amount of the overage by that sector in the prior fishing year. Atlantic migratory group cobia are not considered overfished at this time.

#### *Modification of Generic Framework Procedures*

To facilitate timely adjustments to harvest parameters and other management measures, the Councils have added the ability to adjust ACLs and AMs, and establish and adjust target catch levels, including ACTs, to the current framework procedures. These adjustments or additions may be accomplished through a regulatory amendment which is less time-intensive than an FMP amendment. By including ACLs, AMs, and ACTs in the framework procedures, the Councils and NMFS would have the flexibility to more promptly alter those harvest parameters as new scientific information becomes available. The proposed addition of other management options into the

framework procedures would also add flexibility and the ability to more timely respond to certain future Council decisions through the framework procedures.

#### **Classification**

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with Amendment 18, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866. NMFS prepared an IRFA, as required by section 603 of the Regulatory Flexibility Act, for this rule. The IRFA describes the economic impact this rule, if adopted, would have on small entities. A description of the rule, why it is being considered, the objectives of, and legal basis for this rule are contained at the beginning of this section in the preamble and in the **SUMMARY** section of the preamble. A copy of the full analysis is available from NMFS (see **ADDRESSES**). A summary of the IRFA follows.

The Magnuson-Stevens Act provides the statutory basis for this rule. No duplicative, overlapping, or conflicting Federal rules have been identified.

This rule would affect all fishing in the EEZ that is managed under the FMP for Coastal Migratory Pelagic Resources in the Gulf and Atlantic. This includes the EEZ in the Gulf and South Atlantic, as well as the EEZ in the Mid-Atlantic for king mackerel, Spanish mackerel, and cobia. For purposes of fishery management, Atlantic and Gulf migratory groups have been designated for each of the mackerels, and, under this rule, cobia.

This rule would be expected to apply to 1,000 to 2,000 commercial fishing vessels and as many as 2,500 vessels that have Federal permits to engage in for-hire fishing for coastal migratory pelagic species. The commercial fishing vessels that would be expected to be affected by this rule are estimated to average \$28,000 to \$46,000 (2008 dollars) in gross revenue per vessel for those fishing for king and Spanish mackerel, and \$16,000 to \$277,000 for vessels harvesting other CMP species (the lower value is for vessels harvesting cero while the upper value is for vessels harvesting dolphin; this range encompasses the vessels harvesting all the remaining CMP species). The for-hire vessels expected to be affected by this rule are mostly charter boats, which charge by the trip, often with six or

fewer anglers (paying passengers), and a smaller number of head boats, which charge for each individual angler (only 15 percent of all of the CMP for-hire vessels can carry more than six anglers). Including revenue from all activities, charter boats are estimated to average approximately \$88,000 (2008 dollars) in gross revenue per year, while the headboat average is \$461,000 (2008 dollars).

The Small Business Administration has established size criteria for all major industry sectors in the U.S. including fish harvesters. A business involved in commercial finfish harvesting is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of \$4.0 million (NAICS code 114111, finfish fishing) for all its affiliated operations worldwide. A for-hire business involved in fish harvesting is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of \$7.0 million (NAICS code 713990, recreational industries). Based on the average revenue estimates provided above, all commercial and for-hire fishing vessels expected to be directly affected by this rule are determined for the purpose of this analysis to be small business entities.

All of the actions in this rule that would be jointly applicable to the Gulf and Atlantic migratory groups would be administrative in nature or allow status quo harvest behavior. As a result, none of these actions would be expected to result in any direct economic impacts on small entities.

With the exception of the AMs for the Gulf migratory groups of king mackerel, Spanish mackerel, and cobia, the actions in this rule applicable to the Gulf migratory groups are either administrative or allow status quo harvests and fishing behavior. As a result, these actions would not be expected to result in any direct economic impacts on small entities. The proposed AMs for each species would be expected to result in unquantifiable short-term reductions in economic benefits associated with the implementation of harvest restrictions necessary to correct for harvest overages, should such overages be forecast or occur. These impacts cannot be quantified at this time because the overages, and necessary corrections, cannot be forecast. However, any harvest corrections, and associated reduction in short-term economic

benefits, would be expected to preserve the long-term biological goals, and long-term economic benefits, associated with the harvest of these stocks.

Because the majority of the actions in this rule applicable to the Atlantic migratory groups are either administrative or allow status quo harvests and fishing behavior, only minimal economic effects would be expected to occur. Only the Spanish mackerel ACL and AMs for king mackerel, Spanish mackerel, and cobia, if implemented, would be expected to result in adverse economic impacts. The specification of the Spanish mackerel ACL would be expected to result in a reduction in ex-vessel revenue to commercial fishermen due to a reduction in the allowable commercial harvest and the AM requirement that harvest, possession, and sale of Spanish mackerel be prohibited when the commercial quota is met. The economic activity associated with this reduction in revenue is an estimated 17 harvester and 10 dealer/processor full-time equivalent jobs. The relative effect of this estimated reduction per small entity is unknown. For the 2004/2005 through 2008/2009 fishing years, an average of 349 vessels recorded Atlantic migratory group Spanish mackerel harvests in the Southeast Federal logbook program. These vessels averaged approximately \$28,000 in ex-vessel revenue per vessel per year from all species recorded in the logbook. If divided among these vessels, the estimated reduction in ex-revenue for Spanish mackerel alone (approximately \$680,000) would equate to a reduction in average vessel gross revenue of approximately 7 percent. These results do not include any reduction in gross revenue for other species if trips do not occur (are cancelled) as a result of a prohibition on Spanish mackerel commercial harvest. Total vessel Federal logbook-recorded landings of Spanish mackerel accounted for approximately 57 percent (approximately 2.03 million lb (0.9 million kg) of the total Atlantic migratory group Spanish mackerel harvest during this period (approximately 3.57 million lb (1.62 million kg)). A significant portion of the difference between these harvest totals may be attributed to harvest in Florida waters where Federal permits and logbooks are not required for Spanish mackerel. The average annual revenue profile of the vessels that harvested the remaining portion of the species is unknown. As a result, the total relative effect of the projected reduction in ex-vessel revenue on the profit of small entity commercial vessels is not known.

Three alternatives, including 13 options or sub-options, were considered for the action to modify the fishery management unit (FMU). The proposed action, which incorporates 7 of the 13 options and sub-options, would remove cero, little tunny, and dolphin from the FMP for both the Gulf and South Atlantic regions, and remove bluefish from the FMP for the Gulf region. The no-action alternative, which would retain the four subject species in the FMP for data-collection purposes only, was not adopted because it would not satisfy the Magnuson-Stevens Act guidelines, which do not allow species to be retained in an FMU for data collection purposes only. The third alternative would add the four species to the FMU and set ACLs and AMs for each, following the stated geographic designations. This alternative was not adopted because the Councils determined that these species no longer require Federal management in the respective regions. The proposed action would not be expected to result in any direct economic impact on small entities.

Five alternatives, including three options, were considered for the action to modify the framework procedures. The no-action alternative would not change the framework procedures and was not adopted because it is not consistent with current assessment and management methods. The remaining alternatives were not adopted either because they would have been more restrictive in the items that could be changed through framework procedures, or because they would have given the Councils and NMFS either too much or too little authority to change management outside of the plan amendment process. The proposed action is administrative in nature and would not be expected to result in any direct economic impact on small entities.

Three alternatives were considered for the action to establish separate Atlantic and Gulf migratory groups of cobia. The proposed action would separate cobia into two groups at the Gulf and South Atlantic jurisdictional boundary. The no-action alternative would not split cobia into two migratory groups, and was not adopted because the Councils determined that sufficient information exists to demonstrate that there are at least two different migratory groups and regional management is appropriate. The other alternative to the proposed action would split the two migratory groups at the Miami-Dade/Monroe County line, and was not adopted because it would not best meet the Councils' goals and objectives for the

FMP. The proposed action is administrative in nature and would not be expected to result in any direct economic impact on small entities.

Four alternatives were considered for the action to set the ACL for Gulf migratory group cobia. The proposed action would establish a single stock ACL and set the ACL equal to the ABC. The no-action alternative was not adopted because it would not establish an ACL, as required by the Magnuson-Stevens Act. Another alternative would also set the total ACL equal to the ABC, but would specify sector ACLs. This alternative was not adopted because both sectors are currently managed under the same harvest restrictions and sector separation would not be expected to be beneficial at this time. The remaining alternatives and associated options would establish a buffer between the ACL and ABC and result in lower stock or sector ACLs. These alternatives and options were not adopted because the Councils elected to establish a buffer to the ABC for this species through the ACT rather than the ACL.

Three alternatives, including four options, were considered for the action to set the ACT for Gulf migratory group cobia. The proposed action would specify a single stock ACT and set the ACT equal to 90 percent of the ACL. The no-action alternative would not establish an ACT, but would be an acceptable action because an ACT is not required. This alternative was not adopted because the Councils determined that a buffer between the ABC and allowable harvest was appropriate for this stock and the adoption of the no-action alternative would be inconsistent with the Councils' decision to establish this buffer through the ACT instead of the ACL. The other options were not adopted because they would establish sector ACTs, which would be inconsistent with the Councils' decision to establish a single stock ACL, and/or they would specify a lower stock ACT than the proposed action, and thereby establish a larger buffer than is expected to be necessary for this stock.

Three alternatives, including seven options (options listed under the no-action alternative were not included in this tabulation), were considered for the action to set AMs for Gulf migratory group cobia. The proposed action would set an in-season AM and prohibit harvest for the remainder of the fishing year from the date the ACT is reached or is projected to be reached. AMs for the commercial harvest of this stock do not currently exist under the status quo. As a result, the no-action alternative

was not adopted because it would not establish AMs that account for the harvest from all sectors, as required by the Magnuson-Stevens Act. Two options to the proposed action would also establish in-season AMs but would trigger the AMs when 90 percent of the ACT is reached or projected to be reached. Both options would reduce the possession limit to one fish per person per day, but only one option would prohibit possession of cobia and only then if the ACL is reached and not the ACT. These options were not adopted because the option that would just reduce the possession limit would provide insufficient assurance that the ACL would not be exceeded, while data monitoring issues would likely render the other option inoperable. The remaining alternative and associated four options to the proposed action would establish post-season AMs, each varying in method (overage payback, reduction in possession limit, reduced season) or period of assessment (the overage assessment would be based on multi-year averages). These options were not adopted because the Councils determined that in-season assessment would be more effective in ensuring the ACL is not exceeded. The proposed action would not be expected to result in any direct economic impact on small entities because the proposed ACT (1.31 million lb (0.59 million kg)) exceeds the estimated status-quo harvest (1.07 million lb (0.49 million kg)) for Gulf migratory group cobia.

Five alternatives, including 12 options, were considered for the action to set the ACL for Gulf migratory group king mackerel. The proposed action would set the aggregate (stock) ACL equal to the ABC, and set sector ACLs using current allocation percentages. The no-action alternative would set the stock ACL equal to the current total allowable catch (TAC), and was not adopted because the TAC is less than the ABC and, as a result, this action would have resulted in less economic benefits than the proposed action. The remaining three alternatives to the proposed action would set the stock ACL at 80–90 percent of ABC, and were not adopted because each would have allowed lower harvest, and associated economic benefits, than the proposed action, and the Councils have determined that the condition of this stock and level of management uncertainty does not require a buffer between the ACL and ABC. It is noted that the proposed stock ACL would be expected to allow continued average annual harvest. As a result, the proposed action would not be expected

to result in any direct economic impacts on small entities.

Three alternatives, including 7 options or sub-options (options and sub-options listed under the no-action alternative were not included in this tabulation), were considered for the action to set AMs for Gulf migratory group king mackerel. The proposed action, the no-action alternative, would not set new AMs for this stock. The alternatives, and associated options or sub-options, to the proposed action can be divided into two general categories; alternatives that would change the current in-season AMs (two options), and alternatives that would set post-season AMs (two options encompassing five sub-options). None of these options or sub-options were adopted because the Councils determined that current regulations provide sufficient AMs for the recreational and commercial sectors. The proposed action is not expected to have a direct economic impact on small entities.

Four alternatives, including nine options, were considered for the action to set the ACL for Gulf migratory group Spanish mackerel. The proposed action would set the aggregate ACL equal to the ABC and establish a stock ACL encompassing harvest by both sectors. The no-action alternative would maintain an ACL equal to the current TAC for Gulf migratory group Spanish mackerel. This action was not adopted because the ACL cannot exceed the ABC and the status quo TAC is greater than the proposed ABC. Compared with the proposed action, some options would establish sector ACLs. These options were not adopted because the Councils determined the establishment of sector ACLs would unnecessarily restrict catch and not allow the achievement of optimum yield. The remaining two alternatives, encompassing six options, would specify a single, stock ACL as a portion of ABC (80 percent or 90 percent of ABC, rather than 100 percent). These alternatives and options would have resulted in reductions in economic benefits relative to the proposed action and were not adopted because the Councils determined that a buffer between the ACL and ABC was not needed for this stock.

Three alternatives, including six options or sub-options (options and sub-options listed under the no-action alternative were not included in this tabulation), were considered for the action to set AMs for Gulf migratory group Spanish mackerel. The proposed action would establish in-season AMs that would allow harvest to be prohibited if the stock ACL is reached or projected to be reached. The no-

action alternative would maintain current AMs for Gulf migratory group Spanish mackerel and was not adopted because the current AMs are implemented by sector and are inconsistent with the proposed action to establish a stock ACL. One option to the proposed action would establish in-season AMs that implement a commercial trip limit and reduced recreational bag limits if the stock ACL is reached or projected to be reached. This option was not adopted because it would require multiple in-season actions and may result in a lower certainty that the ACL not be exceeded compared to the proposed action because harvest would not be prohibited. The remaining alternative and associated options would establish post-season AMs. These options were not adopted because they would be expected to impose an increased and unnecessary burden on fishermen and the administration. The proposed action is not expected to have an economic impact on small entities because the proposed stock ACL (5.15 million lb (2.34 million kg)) is greater than the 5-year average (3.63 million lb (1.65 million kg)) or 10-year average (3.95 million lb (1.79 million kg)) landings.

Five alternatives, including five options, were considered for the action to set the ACL and OY for Atlantic migratory group king mackerel. The proposed action would set the ACL and OY equal to the ABC, with the ABC set equal to the average of the current South Atlantic Council's SSC's ABC recommendations for the 2011–2013 seasons. This would result in an ACL of 10.46 million lb (4.75 million kg). The no-action alternative was not adopted because it would not have resulted in as concise a rule for setting the ACL and OY and would have resulted in a lower ACL, 10.0 million lb (4.54 million kg), than the proposed action. Two alternatives to the proposed action would have also set the ACL and OY equal to the ABC but with the ABC equal to, alternatively, the lowest and highest SSC recommended ABCs for 2011–2013. These alternatives were not adopted because they were determined to be, alternatively, excessively or insufficiently conservative compared to the proposed action. The final alternative to the proposed action, which included five options, would have set the ACL and OY equal to a percentage of the ABC, varying from 65–90 percent. These options were not adopted because the Councils determined that the status and management certainty of the king

mackerel stock did not require a buffer between the ACL or OY and the ABC.

Four alternatives were considered for the action to set the recreational sector ACT for Atlantic migratory group king mackerel. The proposed action for this sector would set the ACT based on the uncertainty associated with the estimate of the ACL and would result in a recreational sector ACT of 6.11 million lb (2.77 million kg), which would be less than the proposed recreational sector ACL, but greater than current average annual harvests. As a result, no reduction in current recreational harvest or associated economic benefits or impacts on small entities would be expected to occur. The no-action alternative would not set a recreational sector ACT and was not adopted because the Councils determined that the management uncertainty associated with the recreational harvest of this stock is sufficient to require a buffer between allowable harvest and the ACL. The two remaining alternatives to the proposed action would set the recreational sector ACT based on alternative fixed percentages of the ACL. Neither of these alternatives was adopted because they would result in an ACT that was less reflective of the uncertainty associated with the estimation of the ACL than the proposed action. As applied to the proposed estimate of the ACL, each of these alternatives would also result in a lower recreational harvest, and reduced economic benefits, than the proposed action.

Four alternatives, including ten options, were considered for the action to set AMs for Atlantic migratory group king mackerel. The proposed action includes seven of the options spread over three alternatives. The proposed action would continue in-season quota monitoring and closure if the commercial sector ACL is met or projected to be met, as occurs under the status quo. In addition, the proposed action would adopt post-season adjustments. These adjustments include post-season reductions in bag limits for the recreational sector based on moving multi-year average harvests, to assure that the recreational sector ACL is not exceeded. Post-season bag limits would only be reduced if the stock ACL (both sectors) is exceeded. Post-season overage payback would be required for both sectors, where appropriate, if the stock is overfished and the stock ACL is exceeded. The no-action alternative would continue the current quota monitoring for the commercial sector, and closure when appropriate; it also includes authority under the framework procedures for the Regional

Administrator (RA) to implement several actions, including reduction of the recreational bag limit to zero, if the recreational allocation has been met or is projected to be met. This alternative was not adopted because it would not have been as flexible as the proposed action in factoring in the status of the stock, the total harvest, and annual harvest variability by the recreational sector into the AM decision. One option to the proposed action would have reduced the length of the subsequent recreational fishing season instead of a reduction in the bag limit in the event of a recreational overage. This alternative was not adopted because allowing the sector to continue harvest all year under a reduced bag limit, as would be allowed under the proposed action, would be expected to result in more economic benefits than a closed season. The remaining options to the proposed action would have imposed sector paybacks regardless of stock status. These options were not adopted because each would be expected to result in unnecessary reductions in economic benefits.

Three alternatives, including five options, were considered for the action to set the ACL and OY for Atlantic migratory group Spanish mackerel. The proposed action would set the ACL and OY equal to the ABC. The no-action alternative was not adopted because it would not have resulted in as concise a procedure as the proposed action to determine the ACL based on the ABC, and the resultant ACL would exceed the proposed ABC, which would be inconsistent with the Magnuson-Stevens Act National Standard 1 guidelines (74 FR 3178, January 16, 2009). The third alternative to the proposed action, which included five options, would have set the ACL equal to a percentage of the ABC, varying from 75–95 percent. These options were not adopted because they would be inconsistent with the Councils' determination that specification of a buffer for this stock could be adequately accomplished through the proposed ACT.

Four alternatives were considered for the action to set a recreational sector ACT for Atlantic migratory group Spanish mackerel. The proposed action would be based on the uncertainty associated with the estimate of the sector ACL and would result in a recreational sector ACT of 2.32 million lb (1.05 million kg), which would be less than the proposed recreational sector ACL, but greater than current average annual harvests. As a result, no reduction in current harvest or associated economic benefits or impacts

on small entities in the recreational sector would be expected to occur. The no-action alternative would not set a recreational sector ACT and was not adopted because the Council determined that the management uncertainty associated with the recreational harvest of this stock requires a buffer between allowable harvest and the ACL. The two remaining alternatives to the proposed action would set the recreational sector ACT based on alternative fixed percentages of the ACL. Neither of these alternatives was adopted because they would result in an ACT that was less reflective of the uncertainty associated with the estimation of the ACL than the proposed action. As applied to the proposed estimate of the ACL, each of these alternatives would also result in a lower recreational harvest and reduced economic benefits than the proposed action.

Four alternatives, including nine options, were considered to set AMs for Atlantic migratory group Spanish mackerel. The proposed action includes six of the options spread over three alternatives. The proposed action would implement enhanced quota monitoring for the commercial sector, should in-season closure be necessary, and would adopt post-season adjustments for the recreational sector based on moving multi-year average harvests, including a reduction in the bag limit to assure that the sector ACL is not exceeded, if the stock ACL is exceeded. The proposed action would also require sector overage payback, where appropriate, if the stock is overfished and the stock ACL is exceeded. The no-action alternative would continue the current quota monitoring and staged trip limits for the commercial sector in place of sector closure. It also includes authority under the framework procedures for the RA to implement several actions, including reduction of the recreational bag limit to zero, if the recreational allocation has been met or is projected to be met. This alternative was not adopted because it would not have been as flexible as the proposed action in factoring in the status of the stock, the total harvest, and annual harvest variability by the recreational sector into the AM decision. This alternative was also not adopted because it would not provide for in-season closure for the commercial sector. In the event of a sector overage, one option to the proposed action would have reduced the length of the subsequent recreational fishing season (no reduction in the bag limit) to assure that the sector ACL is not exceeded. This option was not adopted because it

would result in lower economic benefits than the proposed action. The remaining two options to the proposed action would have imposed sector paybacks regardless of stock status. These options were not adopted because each would be expected to result in unnecessary reductions in economic benefits.

Three alternatives, including five options, were considered for the action to set the ACL and OY for Atlantic migratory group cobia. The proposed action would set the ACL and OY equal to the ABC. The no-action alternative was not adopted because it would not set the ACL or OY, as required by the Magnuson-Stevens Act guidelines. The third alternative to the proposed action, which included five options, would have set the ACL and OY equal to a percentage of the ABC, varying from 75–95 percent. These options were not adopted because they would be inconsistent with the Councils' determination that specification of a buffer for this stock could be adequately accomplished through the proposed ACT.

Four alternatives were considered for the action to set a recreational sector ACT for Atlantic migratory group cobia. The proposed action for the recreational sector would set the ACT based on the uncertainty associated with the estimate of the ACL and would result in a recreational sector ACT of 1,184,688 lb (537,365 kg), which would be less than the proposed sector ACL but equal to current average annual harvests. As a result, no reduction in current recreational harvest or associated economic benefits or impacts on small entities would be expected to occur. The no-action alternative would not set a recreational sector ACT and was not adopted because the Councils determined that the management uncertainty associated with the recreational harvest of this stock requires a buffer between allowable harvest and the sector ACL. The two remaining alternatives to the proposed action would set the recreational sector ACT based on alternative fixed percentages of the ACL. Neither of these alternatives was adopted because they would result in an ACT that was less reflective of the uncertainty associated with the estimation of the ACL than the proposed action.

Five alternatives, including seven options, were considered for the action to set AMs for Atlantic migratory group cobia. The proposed action includes five of the options spread over three alternatives and would: Implement in-season quota monitoring for the commercial sector; adopt post-season

adjustments for the recreational sector based on moving multi-year average harvests, including a reduction in the season length to assure that the sector ACL is not exceeded if the stock ACL is exceeded; and require sector overage payback, where appropriate, but only if the stock is overfished and the stock ACL is exceeded. The no-action alternative would continue the current authority to revert the recreational and commercial possession limit to zero if the sectors have met or are projected to meet their allocation. This alternative was not adopted because it would not be as flexible as the proposed action in factoring the status of the stock, the total harvest, and annual harvest variability by the recreational sector into the AM decision. One alternative to the proposed action would explicitly prohibit the purchase and sale of cobia if the commercial quota is met or projected to be met, though this would be functionally equivalent to the status quo as a zero possession limit would preclude purchase or sale. This alternative would not establish additional AMs for the recreational sector, resulting in current recreational AMs remaining in effect. Thus, this alternative would be functionally equivalent to the status quo. Nevertheless, this alternative was not adopted because it, like the no-action alternative, would not be as flexible as the proposed action in factoring the status of the stock, the total harvest, and annual harvest variability by the recreational sector into the AM decision. The remaining options to the proposed action would have imposed sector paybacks regardless of stock status. These options were not adopted because each would be expected to result in unnecessary reductions in economic benefits.

Additional actions and alternatives were considered in the amendment but are not included in this rule because they would either establish management reference points or the proposed action would not result in any regulatory change. These actions and alternatives are discussed in the following paragraphs.

Three alternatives were considered for the action to establish an ABC control rule for Gulf migratory group cobia. The proposed action would determine the appropriate level of risk and/or buffer to set between the overfishing limit (OFL) and ABC based on a tiered approach that considers new information available on the stock and identified through updated stock assessments. The no-action alternative was not adopted because it would not establish an ABC control rule, as recommended by the

Magnuson-Stevens Act guidelines. The second alternative to the proposed action was not adopted because it would establish an ABC control rule that sets the ABC using a static definition which would not allow for changes in the level of risk based on updated stock assessments and, therefore, would not be as flexible as the proposed action.

Three alternatives were considered for the action to establish an ABC control rule for Gulf migratory king mackerel. The proposed action would determine the appropriate level of risk and/or buffer to set between the OFL and ABC based on a tiered approach that would consider new information available on the stock and identified through updated stock assessments. The no-action alternative was not adopted because it would not establish an ABC control rule, as recommended by the Magnuson-Stevens Act guidelines. The second alternative to the proposed action was not adopted because it would establish an ABC control rule that sets the ABC using a static definition which would not allow for changes in the level of risk based on updated stock assessments and, therefore, would not be as flexible as the proposed action.

Three alternatives were considered for the action to set an ACT for Gulf migratory group king mackerel. The proposed action, the no-action alternative, would not set an aggregate ACT. The remaining alternatives and associated options would all set the aggregate ACT equal to a portion of the ACL, varying from 85–90 percent, with or without sector ACTs. These alternatives and options were not adopted because each would have allowed lower harvest, and associated economic benefits, than the proposed action and the Councils determined that the condition of this stock and level of management uncertainty did not require a buffer between the ACT and ACL. Four options would have set ACTs that would not be consistent with the Councils' decision to set ACLs in accordance with current allocation percentages.

Three alternatives were considered for the action to establish an ABC control rule for Gulf migratory group Spanish mackerel. The proposed action would determine the appropriate level of risk and/or buffer to set between the OFL and ABC based on a tiered approach that considers new information available on the stock and identified through updated stock assessments. The no-action alternative was not adopted because it would not establish an ABC control rule, as recommended by the



Magnuson-Stevens Act guidelines. The second alternative to the proposed action was not adopted because it would establish an ABC control rule that sets the ABC using a static definition which would not allow for changes in the level of risk based on updated stock assessments and, therefore, would not be as flexible as the proposed action.

Four alternatives, including six options, were considered for the action to set an ACT for Gulf migratory group Spanish mackerel. The proposed action, the no-action alternative, would not set an ACT for Gulf migratory group Spanish mackerel. The alternatives to the proposed action, and associated options, would implement a stock ACT lower than the ACL and result in lower harvest, and associated economic benefits, than the proposed action. These alternatives and options were not adopted because the Councils determined that a buffer between the ACT and ACL was not needed for this stock. Some options would have set ACTs that are not consistent the Councils' decision to specify a single (stock) ACL.

Four alternatives, including three options, were considered for the action to establish an ABC control rule for Atlantic migratory group king mackerel. The proposed action would determine the appropriate level of risk and/or buffer to set between the OFL and ABC based on a tiered approach that considers new information available on the stock and identified through updated stock assessments. The no-action alternative was not adopted because it would not establish an ABC control rule, as recommended by the Magnuson-Stevens Act guidelines. The remaining alternatives and associated options to the proposed action were not adopted because they would establish an ABC control rule that sets the ABC using a static definition which would not allow for changes in the level of risk based on updated stock assessments and, therefore, would not be as flexible as the proposed action.

Three alternatives were considered for the action to set the commercial sector ACT for Atlantic migratory group king mackerel. The no-action alternative is the proposed action for this sector and would not set a commercial sector ACT for Atlantic migratory group king mackerel. Two alternatives to this proposed action would set ACTs that establish a buffer between the commercial sector ACT and the commercial sector ACL, resulting in lower allowable harvest and reduced economic benefits than the proposed action. Neither of these two alternatives

was adopted because the Councils determined that management uncertainty for this sector of this stock does not require a harvest buffer between the ACT and ACL.

Two alternatives were considered for the action to establish an ABC control rule for Atlantic migratory group Spanish mackerel. The proposed action would determine the appropriate level of risk and/or buffer to set between the OFL and ABC based on a tiered approach that considers new information available on the stock and identified through updated stock assessments. The no-action alternative was not adopted because it would not establish an ABC control rule, as recommended by the Magnuson-Stevens Act guidelines.

Three alternatives were considered for the action to set a commercial sector ACT for Atlantic migratory group Spanish mackerel. The no-action alternative is the proposed action for this sector and would not set a commercial sector ACT for Atlantic migratory group Spanish mackerel. Under this proposed action, commercial sector harvest would be limited to the ACL, which is less than the current harvest and would be expected to result in a reduction in short-term economic benefits under the proposed AMs. Two alternatives to the proposed action would set ACTs that establish a buffer between the commercial sector ACT and the commercial sector ACL, resulting in an allowable harvest that is further below the current harvest than the proposed action and would be expected to result in a greater reduction in harvests and associated economic benefits than the proposed action. Neither of these alternatives was adopted because the Councils determined that management uncertainty for this sector of this stock does not require a harvest buffer between the ACT and ACL.

Five alternatives were considered for the action to change the management measures for the Atlantic migratory group Spanish mackerel. The proposed action, the no-action alternative, would not make any changes in the management measures for this stock. The four alternatives to the proposed action would have increased the restrictions on recreational harvests through reduced bag limits and/or vessel limits. These alternatives were not adopted because current harvest would not need to be reduced under the proposed allowable recreational harvest for this stock. As a result, increased restrictions on recreational harvest would be expected to unnecessarily

reduce economic benefits to fishery participants and associated businesses.

Five alternatives, including three options, were considered for the action to establish an ABC control rule for Atlantic migratory group cobia. The proposed action would adopt the Gulf Council's SSC-recommended ABC control rule, which is essentially the same as the South Atlantic Council's SSC-recommended control rule. This action would determine the appropriate level of risk and/or buffer to set between the OFL and ABC based on a tiered approach that considers new information available on the stock, as identified through updated stock assessments. As applied to this stock, this approach would set the ABC equal to the mean plus 1.5 times the standard deviation of the most recent 10 years of landings data. The no-action alternative was not adopted because it would not establish an ABC control rule, as recommended by the Magnuson-Stevens Act guidelines. The remaining two alternatives and associated options to the proposed action were not adopted because they would establish an ABC control rule that sets the ABC using a static definition which would not allow for changes in the level of risk based on updated stock assessments and, therefore, would not be as flexible as the proposed action. Additionally, application of the rule specified by these alternatives and options would require an estimate of the OFL, which is considered unknown by the SSC.

Three alternatives were considered for the action to define sector allocations for Atlantic migratory group cobia. The proposed action would define allocations based on weighted averages of 2000–2008 and 2006–2008 harvest data. The no-action alternative would not define sector allocations and was not adopted because it would not be consistent with the proposed actions to establish sector ACLs, ACTs (recreational sector only), and AMs. The second alternative to the proposed action would only use 2006–2008 data to determine the allocations and was not adopted because of the potential that this specification may not contain adequate consideration of historic landings. This alternative and the proposed action would result in identical allocations.

Three alternatives were considered for the action to set a commercial sector ACT for Atlantic migratory group cobia. The no-action alternative is the proposed action for this sector and would not set a commercial sector ACT for Atlantic migratory group cobia. Two alternatives to this proposed action would set ACTs that establish a buffer



between the commercial sector ACT and the commercial sector ACL, resulting in lower allowable harvest and reduced economic benefits. Neither of these alternatives was adopted because the Councils determined that management uncertainty for this sector of this stock does not require a harvest buffer between the ACT and ACL.

Six alternatives were considered for the action to change the management measures for the Atlantic migratory group cobia. The proposed action, the no-action alternative, would not make any changes in the management measures for this stock. The five alternatives, and associated options, to the proposed action would have increased restrictions on either commercial or recreational harvests through reduced possession limits per trip, person, or day. These alternatives were not adopted because current harvest would not need to be reduced under the proposed allowable sector harvests for this stock. As a result, increased restrictions on harvest would be expected to unnecessarily reduce economic benefits to fishery participants and associated businesses.

List of Subjects in 50 CFR Part 622

Fisheries, Fishing, Puerto Rico, Reporting and recordkeeping requirements, Virgin Islands.

Dated: October 18, 2011.

Samuel D. Rauch, III,

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

For the reasons set out in the preamble, 50 CFR part 622 is proposed to be amended as follows:

PART 622—FISHERIES OF THE CARIBBEAN, GULF, AND SOUTH ATLANTIC

1. The authority citation for part 622 continues to read as follows:

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

§ 622.1 [Amended]

2. In § 622.1, in Table 1, remove footnotes 2 and 3 and redesignate footnotes 4 through 6 as footnotes 2 through 4.

3. In § 622.2, the definitions for “coastal migratory pelagic fish”, “dolphin”, and “migratory group” are revised to read as follows:

§ 622.2 Definitions and acronyms.

\* \* \* \* \*

Coastal migratory pelagic fish means a whole fish, or a part thereof, of one or more of the following species:

- (1) Cobia, Rachycentron canadum.

(2) King mackerel, Scomberomorus cavalla.

(3) Spanish mackerel, Scomberomorus maculatus.

\* \* \* \* \*

Dolphin means a whole fish, or a part thereof, of the species Coryphaena equiselis or C. hippurus.

\* \* \* \* \*

Migratory group, for king mackerel, Spanish mackerel, and cobia, means a group of fish that may or may not be a separate genetic stock, but that is treated as a separate stock for management purposes. King mackerel, Spanish mackerel, and cobia are divided into migratory groups—the boundaries between these groups are as follows:

(1) King mackerel—(i) Summer separation. From April 1 through October 31, the boundary separating the Gulf and Atlantic migratory groups of king mackerel is 25°48' N. lat., which is a line directly west from the Monroe/ Collier County, FL, boundary to the outer limit of the EEZ.

(ii) Winter separation. From November 1 through March 31, the boundary separating the Gulf and Atlantic migratory groups of king mackerel is 29°25' N. lat., which is a line directly east from the Volusia/ Flagler County, FL, boundary to the outer limit of the EEZ.

(2) Spanish mackerel. The boundary separating the Gulf and Atlantic migratory groups of Spanish mackerel is 25°20.4' N. lat., which is a line directly east from the Miami-Dade/Monroe County, FL, boundary to the outer limit of the EEZ.

(3) Cobia. The boundary separating the Gulf and Atlantic migratory groups of cobia is the line of demarcation between the Atlantic Ocean and the Gulf of Mexico, as specified in § 600.105(c) of this chapter.

\* \* \* \* \*

4. In § 622.4, revise the first sentence of paragraph (a)(2)(iv) to read as follows:

§ 622.4 Permits and fees.

(a) \* \* \*

(2) \* \* \*

(iv) Spanish mackerel. For a person aboard a vessel to be eligible for exemption from the bag limits, a commercial vessel permit for Spanish mackerel must have been issued to the vessel and must be on board. \* \* \*

\* \* \* \* \*

5. In § 622.41, remove paragraph (c)(1)(vi) and redesignate paragraph (c)(1)(vii) as paragraph (c)(1)(vi); revise paragraph (c)(1)(v) and newly redesignated paragraph (c)(1)(vi) to read as follows:

§ 622.41 Species specific limitations.

\* \* \* \* \*

(c) \* \* \*

(1) \* \* \*

(v) Cobia in the Mid-Atlantic and South Atlantic EEZ—automatic reel, bandit gear, handline, rod and reel, and pelagic longline.

(vi) Cobia in the Gulf EEZ—all gear except drift gillnet and long gillnet.

\* \* \* \* \*

6. In § 622.42, revise paragraph (c) to read as follows:

§ 622.42 Quotas.

\* \* \* \* \*

(c) Coastal migratory pelagic fish. King and Spanish mackerel quotas apply to persons who fish under commercial vessel permits for king or Spanish mackerel, as required under § 622.4(a)(2)(iii) or (iv). Cobia quotas apply to persons who fish for cobia and sell their catch. A fish is counted against the quota for the area where it is caught.

(1) Migratory groups of king mackerel—(i) Gulf migratory group. For the 2012 to 2013 fishing year, the quota for the Gulf migratory group of king mackerel is 3.808 million lb (1.728 million kg). For the 2013 to 2014 fishing year and subsequent fishing years, the quota for the Gulf migratory group of king mackerel is 3.456 million lb (1.568 million kg). The Gulf migratory group is divided into eastern and western zones separated by 87°31.1' W. long., which is a line directly south from the Alabama/ Florida boundary. Quotas for the eastern and western zones are as follows:

(A) Eastern zone. The eastern zone is divided into subzones with quotas as follows:

(1) Florida east coast subzone. For the 2012 to 2013 fishing year, the quota is 1,215,228 lb (551,218 kg). For the 2013 to 2014 fishing year and subsequent fishing years, the quota is 1,102,896 lb (500,265 kg).

(2) Florida west coast subzone. (i) Southern. For the 2012 to 2013 fishing year, the quota is 1,215,228, (515,218 kg). For the 2013 to 2014 fishing year and subsequent fishing years, the quota is 1,102,896 lb (500,265 kg), which is further divided into a quota for vessels fishing with hook-and-line and a quota for vessels fishing with run-around gillnets. For the 2012 to 2013 fishing year, the hook-and-line quota is 607,614 lb (275,609 kg) and the run-around gillnet quota is 607,614 lb (275,609 kg). For the 2013 to 2014 fishing year and subsequent fishing years, the hook-and-line quota is 551,448 lb (250,133 kg) and the run-around gillnet quota is 551,448 lb (250,133 kg).

(ii) Northern. For the 2012 to 2013 fishing year, the quota is 197,064 lb

(89,387 kg). For the 2013 to 2014 fishing year and subsequent fishing years, the quota is 178,848 lb (81,124 kg).

(3) Description of Florida subzones. From November 1 through March 31, the Florida east coast subzone is that part of the eastern zone south of 29°25' N. lat. (a line directly east from the Flagler/Volusia County, FL, boundary) and north of 25°20.4' N. lat. (a line directly east from the Miami-Dade/Monroe County, FL, boundary). From April 1 through October 31, the Florida east coast subzone is no longer part of the Gulf migratory group king mackerel area; it is part of the Atlantic migratory group king mackerel area. The Florida west coast subzone is that part of the eastern zone south and west of 25°20.4' N. lat. The Florida west coast subzone is further divided into southern and northern subzones. From November 1 through March 31, the southern subzone is that part of the Florida west coast subzone that extends south and west from 25°20.4' N. lat., north to 26°19.8' N. lat. (a line directly west from the Lee/Collier County, FL, boundary). From April 1 through October 31, the southern subzone is that part of the Florida west coast subzone that is between 26°19.8' N. lat. and 25°48' N. lat. (a line directly west from the Monroe/Collier County, FL, boundary). The northern subzone is that part of the Florida west coast subzone that is between 26°19.8' N. lat. north and west to 87°31.1' W. long. (a line directly south from the Alabama/Florida boundary) year round.

(B) *Western zone*. For the 2012 to 2013 fishing year, the quota is 1,180,480 lb (535,457 kg). For the 2013 to 2014 fishing year and subsequent fishing years, the quota is 1,071,360 lb (485,961 kg).

(ii) *Atlantic migratory group*. The quota for the Atlantic migratory group of king mackerel is 3.88 million lb (1.76 million kg). No more than 0.40 million lb (0.18 million kg) may be harvested by purse seines.

(2) *Migratory groups of Spanish mackerel*—(i) *Gulf migratory group*. [Reserved]

(ii) *Atlantic migratory group*. The quota for the Atlantic migratory group of Spanish mackerel is 3.13 million lb (1.42 million kg).

(3) *Migratory groups of cobia*—(i) *Gulf migratory group*. [Reserved]

(ii) *Atlantic migratory group*. The quota for the Atlantic migratory group of cobia is 125,712 lb (57,022 kg).

\* \* \* \* \*

7. In § 622.43, revise the heading of paragraph (a), add a sentence at the end of the introductory paragraph in

paragraph (a), revise the heading of paragraph (a)(3), remove the introductory paragraph in paragraph (a)(3), revise paragraph (a)(3)(iii), revise paragraph (b)(1), and revise paragraph (c) to read as follows:

**§ 622.43 Closures.**

\* \* \* \* \*

(a) *Quota closures*. \* \* \* (See § 622.49 for closure provisions when an ACL is reached or projected to be reached).

(3) *Coastal migratory pelagic fish*.

\* \* \* \* \*

(iii) The sale or purchase of king mackerel, Spanish mackerel, or cobia of the closed species, migratory group, subzone, or gear type, is prohibited, including any king or Spanish mackerel taken under the bag limits, or cobia taken under the limited-harvest species possession limit specified in § 622.32(c)(1).

\* \* \* \* \*

(b) \* \* \*

(1) The prohibition on sale/purchase during a closure for Gulf reef fish, coastal migratory pelagic fish, royal red shrimp, or specified snapper-grouper species in paragraphs (a)(1), (a)(3)(iii), (a)(4), or (a)(5) and (a)(6), respectively, of this section does not apply to the indicated species that were harvested, landed ashore, and sold prior to the effective date of the closure and were held in cold storage by a dealer or processor.

\* \* \* \* \*

(c) *Reopening*. When a sector has been closed based on a projection of the quota specified in § 622.42, or the ACL specified in § 622.49, being reached and subsequent data indicate that the quota or ACL was not reached, the Assistant Administrator may file a notification to that effect with the Office of the Federal Register. Such notification may reopen the sector to provide an opportunity for the quota or ACL to be harvested.

8. In § 622.48, revise paragraph (c) to read as follows:

**§ 622.48 Adjustment to management measures.**

\* \* \* \* \*

(c) *Coastal migratory pelagic fish*. For a species or species group: reporting and monitoring requirements, permitting requirements, bag and possession limits (including a bag limit of zero), size limits, vessel trip limits, closed seasons or areas and reopenings, annual catch limits (ACLs), annual catch targets (ACTs), quotas (including a quota of zero), accountability measures (AMs), MSY (or proxy), OY, TAC, management parameters such as overfished and overfishing definitions, gear restrictions

(ranging from regulation to complete prohibition), gear markings and identification, vessel markings and identification, allowable biological catch (ABC) and ABC control rules, rebuilding plans, sale and purchase restrictions, transfer at sea provisions, and restrictions relative to conditions of harvested fish (maintaining fish in whole condition, use as bait).

\* \* \* \* \*

9. In § 622.49, revise the section heading and add paragraph (c) to read as follows:

**§ 622.49 Annual catch limits (ACLs) and accountability measures (AMs).**

\* \* \* \* \*

(c) *Coastal migratory pelagic fish*—(1) *Gulf migratory group king mackerel*—(i) *Commercial sector*. If commercial landings, as estimated by the SRD, reach or are projected to reach the applicable quota specified in § 622.42(c)(1)(i) (commercial ACL), the AA will file a notification with the Office of the Federal Register to close the commercial sector for that zone, subzone, or gear type for the remainder of the fishing year.

(ii) *Recreational sector*. If recreational landings, as estimated by the SRD, reach or are projected to reach the recreational ACL of 8.092 million lb (3.670 million kg), the AA will file a notification with the Office of the Federal Register to implement a bag and possession limit for Gulf migratory group king mackerel of zero, unless the best scientific information available determines that a bag limit reduction is unnecessary. This bag and possession limit would also apply in the Gulf on board a vessel for which a valid Federal charter vessel/headboat permit for coastal migratory pelagic fish has been issued, without regard to where such species were harvested, *i.e.* in State or Federal waters.

(iii) For purposes of tracking the ACL, recreational landings will be monitored based on the commercial fishing year, July 1 through June 1.

(2) *Atlantic migratory group king mackerel*—(i) *Commercial sector*—(A) If commercial landings, as estimated by the SRD, reach or are projected to reach the quota specified in § 622.42(c)(1)(ii) (commercial ACL), the AA will file a notification with the Office of the Federal Register to close the commercial sector for the remainder of the fishing year.

(B) In addition to the measures specified in paragraph (c)(2)(i)(A), if the sum of the commercial and recreational landings, as estimated by the SRD, exceeds the stock ACL, as specified in paragraph (c)(2)(iii) of this section, and Atlantic migratory group king mackerel

are overfished, based on the most recent status of U.S. Fisheries Report to Congress, the AA will file a notification with the Office of the Federal Register, at or near the beginning of the following fishing year to reduce the commercial quota (commercial ACL) for that following year by the amount of any commercial sector overage in the prior fishing year.

(ii) *Recreational sector.* (A) If the sum of the commercial and recreational landings, as estimated by the SRD, exceeds the stock ACL, as specified in paragraph (c)(2)(iii) of this section, the AA will file a notification with the Office of the Federal Register, at or near the beginning of the following fishing year to reduce the bag limit by the amount necessary to ensure recreational landings may achieve the recreational annual catch target (ACT), but do not exceed the recreational ACL, in the following fishing year. The recreational ACT is 6.11 million lb (2.77 million kg). The recreational ACL is 6.58 million lb (2.99 million lb)

(B) In addition to the measures specified in paragraph (c)(2)(i)(A), if the sum of the commercial and recreational landings, as estimated by the SRD, exceeds the stock ACL, as specified in paragraph (c)(2)(iii) of this section, and Atlantic migratory group king mackerel are overfished, based on the most recent status of U.S. Fisheries Report to Congress, the AA will file a notification with the Office of the Federal Register, at or near the beginning of the following fishing year to reduce the recreational ACL and ACT for that following year by the amount of any recreational sector overage in the prior fishing year.

(C) For purposes of tracking the ACL, recreational landings will be evaluated based on the commercial fishing year, March through February. Recreational landings will be evaluated relative to the ACL based on a moving multi-year average of landings, as described in the FMP.

(iii) The stock ACL for Atlantic migratory group king mackerel is 10.46 million lb (4.75 million kg).

(3) *Gulf migratory group Spanish mackerel*—(i) If the sum of the commercial and recreational landings, as estimated by the SRD, reaches or is projected to reach the stock ACL, as specified in paragraph (c)(3)(iii) of this section, the AA will file a notification with the Office of the Federal Register to close the commercial and recreational sectors for the remainder of the fishing year. On and after the effective date of such a notification, all sale and purchase of Gulf migratory group Spanish mackerel is prohibited and the harvest and possession limit of this

species in or from the Gulf EEZ is zero. This possession limit also applies in the Gulf on board a vessel for which a valid Federal charter vessel/headboat permit for coastal migratory pelagic fish has been issued, without regard to where such species were harvested, *i.e.* in State or Federal waters.

(ii) For purposes of tracking the ACL, recreational landings will be evaluated based on the commercial fishing year, April through March.

(iii) The stock ACL for Gulf migratory group Spanish mackerel is 5.15 million lb (4.75 million kg).

(4) *Atlantic migratory group Spanish mackerel*—(i) *Commercial sector*—(A) If commercial landings, as estimated by the SRD, reach or are projected to reach the quota specified in § 622.42(c)(2)(ii) (commercial ACL), the AA will file a notification with the Office of the Federal Register to close the commercial sector for the remainder of the fishing year.

(B) In addition to the measures specified in paragraph (c)(4)(i)(A), if the sum of the commercial and recreational landings, as estimated by the SRD, exceeds the stock ACL, as specified in paragraph (c)(4)(iii) of this section, and Atlantic migratory group Spanish mackerel are overfished, based on the most recent status of U.S. Fisheries Report to Congress, the AA will file a notification with the Office of the Federal Register, at or near the beginning of the following fishing year to reduce the commercial quota (commercial ACL) for that following year by the amount of any commercial sector overage in the prior fishing year.

(ii) *Recreational sector.* (A) If the sum of the commercial and recreational landings, as estimated by the SRD, exceeds the stock ACL, as specified in paragraph (c)(4)(iii) of this section, the AA will file a notification with the Office of the Federal Register, at or near the beginning of the following fishing year to reduce the bag limit by the amount necessary to ensure recreational landings may achieve the recreational ACT, but do not exceed the recreational ACL, in the following fishing year. The recreational ACT is 2.32 million lb (1.05 million kg). The recreational ACL is 2.56 million lb (1.16 million kg).

(B) In addition to the measures specified in paragraph (c)(4)(i)(A), if the sum of the commercial and recreational landings, as estimated by the SRD, exceeds the stock ACL, as specified in paragraph (c)(4)(iii) of this section, and Atlantic migratory group Spanish mackerel are overfished, based on the most recent status of U.S. Fisheries Report to Congress, the AA will file a notification with the Office of the

Federal Register, at or near the beginning of the following fishing year to reduce the recreational ACT for that following year by the amount of any recreational sector overage in the prior fishing year.

(C) For purposes of tracking the ACL and ACT, recreational landings will be evaluated based on the commercial fishing year, March through February. Recreational landings will be evaluated relative to the ACL based on a moving multi-year average of landings, as described in the FMP.

(iii) The stock ACL for Atlantic migratory group Spanish mackerel is 5.69 million lb (2.58 million kg).

(5) *Gulf migratory group cobia*—(i) If the sum of the commercial and recreational landings, as estimated by the SRD, reaches or is projected to reach the stock ACT, as specified in paragraph (c)(5)(ii) of this section, the AA will file a notification with the Office of the Federal Register to close the commercial and recreational sectors for the remainder of the fishing year. On and after the effective date of such a notification, all sale and purchase of Gulf migratory group cobia is prohibited and the harvest and possession limit of this species in or from the Gulf EEZ is zero. This bag and possession limit also applies in the Gulf on board a vessel for which a valid Federal charter vessel/headboat permit for coastal migratory pelagic fish has been issued, without regard to where such species were harvested, *i.e.* in state or Federal water.

(ii) The stock ACT for Gulf migratory group cobia is 1.31 million lb (0.59 million kg). The stock ACL for Gulf migratory group cobia is 1.46 million lb (0.66 million kg).

(6) *Atlantic migratory group cobia*—(i) *Commercial sector*—(A) If commercial landings, as estimated by the SRD, reach or are projected to reach the quota specified in § 622.42(c)(3)(ii) (commercial ACL), the AA will file a notification with the Office of the Federal Register to close the commercial sector for the remainder of the fishing year.

(B) In addition to the measures specified in paragraph (c)(6)(i)(A), if the sum of the commercial and recreational landings, as estimated by the SRD, exceeds the stock ACL, as specified in paragraph (c)(6)(iii) of this section, and Atlantic migratory group cobia are overfished, based on the most recent status of U.S. Fisheries Report to Congress, the AA will file a notification with the Office of the Federal Register, at or near the beginning of the following fishing year to reduce the commercial quota (commercial ACL) for that following year by the amount of any

commercial sector coverage in the prior fishing year.

(ii) *Recreational sector.* (A) If the sum of the commercial and recreational landings, as estimated by the SRD, exceeds the stock ACL, as specified in paragraph (c)(6)(iii) of this section, the AA will file a notification with the Office of the Federal Register, at or near the beginning of the following fishing year to reduce the length of the following recreational fishing season by the amount necessary to ensure recreational landings may achieve the recreational ACT, but do not exceed the recreational ACL in the following fishing year. Further, during that following year, if necessary, the AA may file additional notification with the Office of the Federal Register to readjust the reduced fishing season to ensure recreational harvest achieves but does not exceed the intended harvest level. The recreational ACT is 1,184,688 lb (537,365 kg). The recreational ACL is 1,445,687 (655,753 kg).

(B) In addition to the measures specified in paragraph (c)(6)(ii)(A), if the sum of the commercial and recreational landings, as estimated by the SRD, exceeds the stock ACL, as specified in paragraph (c)(6)(iii) of this section, and Atlantic migratory group cobia are overfished, based on the most recent status of U.S. Fisheries Report to Congress, the AA will file a notification with the Office of the Federal Register, at or near the beginning of the following fishing year to reduce the recreational ACL and ACT for that following year by the amount of any recreational sector coverage in the prior fishing year.

(C) Recreational landings will be evaluated relative to the ACL based on a moving multi-year average of landings, as described in the FMP.

(iii) The stock ACL for Atlantic migratory group cobia is 1,571,399 lb (712,775 kg).

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BILLING CODE 3510-22-P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 635

RIN 0648-BB29

#### Atlantic Highly Migratory Species; Atlantic Shark Management Measures; Correction

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

**ACTION:** Stock status determinations; Notice of Intent (NOI) to prepare an Environmental Impact Statement (EIS); request for comments; correction.

**SUMMARY:** This document corrects an October 7, 2011, notice that announced the stock status of several Atlantic shark stocks and announced NMFS' intent to amend the 2006 Consolidated Highly Migratory Species (HMS) Fishery Management Plan (FMP) via the rulemaking process to rebuild these shark stocks and end overfishing, as necessary. The notice provided an incorrect date for a scoping meeting held in Galloway, NJ. This document provides the correct date. The address and time for the scoping meeting remain the same. Although the meeting already occurred, it is important that the date be accurate for HMS' records.

**DATES:** The correct date for the Galloway, NJ, scoping meeting is Tuesday, October 11, 2011.

**ADDRESSES:** The scoping meeting was held at the Dolce Seaview Resort at 401 South New York Road, Galloway, New Jersey 08205.

**FOR FURTHER INFORMATION CONTACT:** Karyl Brewster-Geisz or Peter Cooper at (301) 427-8503, or Jackie Wilson at (240) 338-3936.

#### SUPPLEMENTARY INFORMATION:

##### Background

NMFS announced the stock status of sandbar, dusky, and Atlantic and Gulf of Mexico blacknose shark stocks in a **Federal Register** notice on October 7, 2011 (76 FR 62331). The notice also announced NMFS' intent to undertake rulemaking to rebuild and/or end overfishing of these Atlantic shark stocks and to prepare an Environmental Impact Statement (EIS) to assess the potential effects on the human and natural environment resulting from this rulemaking. The notice also announced that NMFS is in the scoping phase of the rulemaking process and notified the public of five public scoping meetings and one conference call to provide the opportunity for public comment on potential shark management measures. Further details regarding the public scoping meetings are provided in the October 7, 2011, notice and are not repeated here.

##### Need for Correction

In the original **Federal Register** notice, the date for the Galloway, NJ, public scoping meeting contains an error and is in need of correction.

##### Correction

Accordingly, in the October 7, 2011 (76 FR 62331) notice (Doc. 2011-

26021)—on page 62334, in Table 2, column 1, row 1—the date “October 12, 2011” is corrected to read as follows: “October 11, 2011.”

Dated: October 19, 2011.

**Emily H. Menashes,**

*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 660

[Docket No. 101206604-1620-01]

RIN 0648-BA55

#### Fisheries Off West Coast States; West Coast Salmon Fisheries; Amendment 16 to the Salmon Fishery Management Plan

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

**ACTION:** Proposed rule; request for comments; notice of availability of a draft environmental assessment.

**SUMMARY:** NMFS proposes regulations to implement Amendment 16 to the Pacific Coast Salmon Fishery Management Plan for Commercial and Recreational Salmon Fisheries off the Coasts of Washington, Oregon, and California (Salmon FMP). Amendment 16, which was transmitted by the Pacific Fishery Management Council (Council) on September 12, 2011, to the Secretary of Commerce (Secretary) for review and approval, brings the Salmon FMP into compliance with the Magnuson-Stevens Fishery Conservation and Management Act (MSA) as reauthorized in 2006, and the corresponding revised National Standard 1 Guidelines (NS1Gs) to end and prevent overfishing. This document also announces the availability for public review and comment of a draft environmental assessment (EA) analyzing the environmental impacts of implementing Amendment 16.

**DATES:** Written comments on this proposed rule must be received on or before November 18, 2011.

**ADDRESSES:** You may submit comments, identified by NOAA-NMFS-2011-0227, by any one of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal e-Rulemaking Portal <http://www.regulations.gov>. To submit