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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 140722613-4908-02]

RIN 0648- BE31

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic;  
Coastal Migratory Pelagic Resources in the Gulf of Mexico and  
Atlantic Region; Framework Amendment 1

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement management  
measures described in a framework amendment to the Fishery  
Management Plan for the Coastal Migratory Pelagic (CMP)  
Resources in the Gulf of Mexico and Atlantic Region (FMP)  
(Framework Amendment 1), as prepared and submitted by the South  
Atlantic and Gulf of Mexico Fishery Management Councils  
(Councils). This rule modifies the annual catch limits (ACLs)  
for Atlantic and Gulf of Mexico (Gulf) migratory groups of  
Spanish mackerel and modifies the recreational annual catch  
target (ACT) for Atlantic migratory group Spanish mackerel,  
based on the results of the most recent stock assessments for

these stocks. Framework Amendment 1 also specifies the optimum yield and acceptable biological catch (ABC) estimates for Atlantic and Gulf migratory groups of Spanish mackerel. The purpose of this rule is to update ACLs based on the best scientific information available and to ensure overfishing does not occur for the Spanish mackerel resources in the Atlantic and Gulf.

DATES: This rule is effective [insert date 30 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: Electronic copies of the Framework Amendment, which includes an environmental assessment, a regulatory flexibility act analysis and a regulatory impact review, may be obtained from the Southeast Regional Office Web Site at <http://sero.nmfs.noaa.gov>.

FOR FURTHER INFORMATION CONTACT: Karla Gore, telephone: 727-824-5305, or e-mail: [karla.gore@noaa.gov](mailto:karla.gore@noaa.gov).

SUPPLEMENTARY INFORMATION: The CMP fishery of the South Atlantic and the Gulf 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).

On July 31, 2014, NMFS published a proposed rule for Framework Amendment 1 and requested public comment (79 FR

44369). The proposed rule and Framework Amendment 1 outline the rationale for the actions contained in this final rule. A summary of the actions implemented by this final rule is provided below.

#### Management Measures Contained in this Final Rule

This final rule revises the stock ACLs for Atlantic and Gulf migratory groups of Spanish mackerel, based on the results of the most recent assessments and the ABC recommendations by the Councils' Scientific and Statistical Committees (SSCs). Additionally, this final rule revises the commercial and recreational ACLs (based on previously determined sector allocations), the recreational ACT, and the adjusted commercial quota for Atlantic migratory group Spanish mackerel, based on the revised commercial ACL (commercial quota).

#### Revise Commercial and Recreational ACLs, and Recreational ACT for Atlantic Migratory Group Spanish Mackerel

This final rule revises the stock ACL for Atlantic Migratory group Spanish mackerel to 6.063 million lb (2.750 million kg) and allocates the revised ACL based on the previously determined allocation distribution of 55 percent to the commercial sector and 45 percent to the recreational sector. Therefore, this final rule increases the commercial ACL (equal to the commercial quota) for Atlantic migratory group Spanish

mackerel to 3.33 million lb (1.51 million kg) and the recreational ACL to 2.727 million lb (1.236 million kg). The recreational ACT increases to 2.364 million lb (1.072 million kg).

Revise Adjusted Quota for Atlantic Migratory Group Spanish Mackerel

This final rule revises the adjusted commercial quota for Atlantic migratory group Spanish mackerel from 2.88 million (1.31 million kg) to 3.08 million lb (1.40 million kg), based on the increase of the commercial ACL (commercial quota) for Atlantic migratory group Spanish mackerel. The adjusted quota is the quota for Atlantic migratory group Spanish mackerel reduced by an amount calculated to allow continued harvests of Atlantic migratory group Spanish mackerel at the rate of 500 lb (227 kg) per vessel per day for the remainder of the fishing year after the adjusted quota is reached. Total commercial harvest is still subject to the ACL and an in-season closure when landings are projected to reach the ACL.

Revise Stock ACL for Gulf Migratory Group Spanish Mackerel

This final rule increases the stock ACL for Gulf migratory group Spanish mackerel to 12.7 million lb (5.76 million kg) for the 2014-2015 fishing year, 11.8 million lb (5.35 million kg) for the 2015-2016 fishing year, and 11.3 million lb (5.13

million kg) for the 2016-2017 fishing year and subsequent fishing years.

#### Additions to Codified Text

This final rule also includes additions to the introductory paragraphs for the CMP Quotas and ACLs/AMs/ACTs sections (50 CFR 622.384 and 50 CFR 622.388) to include language that all weights are in round and eviscerated weight combined, unless specified otherwise. This language is added to clarify that the quotas, ACLs, and ACTs are established using landings that are documented in both round weight (whole weight) and eviscerated weight (gutted weight).

#### Comments and Responses

NMFS received a total of eight comment letters on the proposed rule, which include comments from a Federal agency, private citizens, recreational fishermen, and commercial fishermen. The Federal agency stated it had no comments. Two comments were received in support of the proposed rule. Specific comments on the proposed rule and NMFS' respective responses are summarized below.

Comment 1: There is no need to increase the harvest of Spanish mackerel. A precautionary approach should be used and catch should be maintained at current levels.

Response: NMFS disagrees that catch should be maintained at current levels. The increased catch levels are expected to enhance social and economic benefits to fishermen and fishing communities that utilize the Atlantic and Gulf Spanish mackerel migratory groups, while having no negative impacts on the stocks. Based on the most recent Southeast Data, Assessment, and Review (SEDAR) stock assessments for Gulf and Atlantic Spanish mackerel the Councils' SSCs determined that the catch levels for Atlantic and Gulf Spanish mackerel could be increased without negatively impacting the stocks. The stock assessment results indicated that the stocks are healthy and the SSCs established a buffer between the ABCs and the overfishing levels to account for scientific uncertainty. The Southeast Fisheries Science Center concluded that the increased ABCs and ACLs for Atlantic and Gulf migratory groups of Spanish mackerel are based upon the best scientific information available.

Comment 2: Increasing the harvest of Spanish mackerel could result in an increase in bycatch of ladyfish, bluefish, and other species in the northern Gulf.

Response: NMFS disagrees that increasing catch levels for the Atlantic and Gulf migratory groups of Spanish mackerel will result in increased bycatch. A bycatch practicability analysis was included in Framework Amendment 1 and indicates that the

Spanish mackerel portion of the CMP fishery has relatively low levels of bycatch. The analysis concludes that these low levels of bycatch are not expected to change as a result of implementation of the amendment.

Comment 3: The recreational sector allocation for Atlantic migratory group Spanish mackerel should be set equal to the commercial sector allocation.

Response: Framework Amendment 1 and this final rule do not address the sector allocations for Atlantic migratory group Spanish mackerel that were established in 1999 (64 FR 45457) and this comment is therefore beyond the scope of this rule.

Comment 4: One comment states that the recreational bag limit for Atlantic migratory group Spanish mackerel should not be increased from 10 fish per person per day to 15 fish per person per day. Another comment indicates the bag limit for Atlantic migratory group Spanish mackerel should be reduced from 15 fish per person per day to 10 fish per person per day.

Response: Framework Amendment 1 and this final rule do not address the recreational bag limit for Spanish mackerel and this comment is therefore beyond the scope of this rule.

Comment 5: With the increase in the ACL, the minimum size limit for Gulf migratory group Spanish mackerel should be increased from 12 inches (30.5 cm) fork length (FL) to 15 inches

(38.1 cm) FL. Most of the fish caught are larger than 15 inches (38.1 cm) total length.

Response: Framework Amendment 1 and this final rule do not address the minimum size limit for Gulf migratory group Spanish mackerel and this comment is therefore beyond the scope of this rule.

#### Classification

The Regional Administrator, Southeast Region, NMFS, has determined that this final rule is necessary for the conservation and management of Atlantic and Gulf migratory groups of Spanish mackerel and is consistent with Framework Amendment 1, the FMP, the Magnuson-Stevens Act and other applicable law.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for this certification was published in the proposed rule and is not repeated here. No comments were received regarding the certification and NMFS has not received any new information that

would affect its determination. No changes to the final rule were made in response to public comments. As a result, a regulatory flexibility analysis was not required and none was prepared.

List of Subjects in 50 CFR Part 622

Annual catch limit, Annual catch target, Fisheries, Fishing, Gulf, Quotas, South Atlantic, Spanish mackerel.

Dated: November 4, 2014.

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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 amended as follows:

PART 622--FISHERIES OF THE CARIBBEAN, GULF OF MEXICO, AND SOUTH ATLANTIC

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

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

2. In § 622.384, a sentence is added at the end of the introductory text and paragraph (c) (2) is revised to read as follows:

§ 622.384 Quotas.

\* \* \* All weights are in round and eviscerated weight combined, unless specified otherwise.

\* \* \* \* \*

(c) \* \* \*

(2) Atlantic migratory group. The commercial quota for the Atlantic migratory group of Spanish mackerel is 3.33 million lb (1.51 million kg).

\* \* \* \* \*

3. In § 622.385, the first sentence in paragraph (b) (2) is revised to read as follows:

§ 622.385 Commercial trip limits.

\* \* \* \* \*

(b) \* \* \*

(2) For the purpose of paragraph (b) (1) (ii) of this section, the adjusted quota is 3.08 million lb (1.40 million kg). \* \* \*

\* \* \* \* \*

4. In § 622.388, introductory text is added and paragraphs (c) (3), (d) (3), and the last two sentences of paragraph

(d) (2) (i) are revised to read as follows:

§ 622.388 Annual catch limits (ACLs), annual catch targets (ACTs), and accountability measures (AMs).

All weights are in round and eviscerated weight combined, unless specified otherwise.

\* \* \* \* \*

(c) \* \* \*

(3) The stock ACL for Gulf migratory group Spanish mackerel is 12.7 million lb (5.76 million kg) for the 2014-2015 fishing year, 11.8 million lb (5.35 million kg) for the 2015-2016 fishing year, and 11.3 million lb (5.13 million kg) for the 2016-2017 fishing year and subsequent fishing years.

(d) \* \* \*

(2) \* \* \*

(i) \* \* \* The recreational ACT for the Atlantic migratory group is 2.364 million lb (1.072 million kg). The recreational ACL for the Atlantic migratory group is 2.727 million lb (1.236 million kg).

\* \* \* \* \*

(3) The stock ACL for Atlantic migratory group Spanish mackerel is 6.063 million lb (2.76 million kg).

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Date: 11/20/2014]