



Billing Code 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

RIN 0648-BK22

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Dolphin and Wahoo Fishery off the Atlantic States; Amendment 12

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

ACTION: Announcement of availability of fishery management plan amendment; request for comments.

SUMMARY: The South Atlantic Fishery Management Council (Council) submitted Amendment 12 to the Fishery Management Plan (FMP) for the Dolphin and Wahoo Fishery off the Atlantic States (Dolphin Wahoo FMP) for review, approval, and implementation by NMFS. If approved by the Secretary of Commerce, Amendment 12 to the Dolphin Wahoo FMP (Amendment 12) would add bullet mackerel and frigate mackerel to the Dolphin Wahoo FMP and designate them as ecosystem component (EC) species. The purpose of Amendment 12 is to acknowledge the ecological role of bullet mackerel and frigate mackerel as forage fish and to achieve the ecosystem management objectives in the Dolphin Wahoo FMP.

DATES: Written comments must be received on or before

[insert date 60 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: You may submit comments on Amendment 12, identified by "NOAA-NMFS-2020-0146," by either of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2020-0146, click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Nikhil Mehta, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (e.g., name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

Electronic copies of Amendment 12, which includes a

fishery impact statement, a Regulatory Flexibility Act analysis, and a regulatory impact review, may be obtained from the Southeast Regional Office Web Site at <https://www.fisheries.noaa.gov/action/amendment-12-add-bullet-mackerel-and-frigate-mackerel-ecosystem-component-species>.

FOR FURTHER INFORMATION CONTACT: Nikhil Mehta, telephone: 727-824-5305, or email: nikhil.mehta@noaa.gov.

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires each regional fishery management council to submit any FMP or FMP amendment to the Secretary of Commerce (the Secretary) for review and approval, partial approval, or disapproval. The Magnuson-Stevens Act also requires that NMFS, upon receiving an FMP or amendment, publish an announcement in the **Federal Register** notifying the public that the FMP or amendment is available for review and comment.

The Council prepared the Dolphin Wahoo FMP that is being revised by Amendment 12. If approved, Amendment 12 would be implemented by NMFS through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Act.

Background

The Council manages dolphin and wahoo under the Dolphin Wahoo FMP in Federal waters off the Atlantic states from Maine south to the Florida Keys in the Atlantic. In

the western North Atlantic, bullet mackerel are found from Cape Cod to the Gulf of Mexico, and frigate mackerel are found mostly from North Carolina to Florida. As described in Amendment 12, both bullet mackerel and frigate mackerel are found in the diets of dolphin and wahoo in the North Atlantic. In particular, wahoo has been demonstrated to have a strong dietary reliance on bullet and frigate mackerel, indicating that these mackerel species are the most dominant forage species observed in the diets of wahoo. Dolphin tend to have more diverse diets than wahoo and have a lower reliance on these mackerel species as prey. Additionally, bullet and frigate mackerel have been identified as important forage species for other offshore pelagic predatory species in the Atlantic such as blue marlin and yellowfin tuna. Bullet mackerel feed on a variety of prey, especially clupeoids (*i.e.* herrings and sardines), crustaceans, and squids. Frigate mackerel feed on a variety of fish, squid, and small crustaceans. Therefore, given their presence as a common forage fish and prey food source, bullet mackerel and frigate mackerel are an important component of the marine environment in the Atlantic. There is no stock assessment for dolphin, wahoo, bullet mackerel, or frigate mackerel. In Atlantic Federal waters, dolphin and wahoo are targeted both commercially and recreationally. Annual reported commercial and recreational landings of bullet mackerel and frigate

mackerel are low along the entire Atlantic coastline.

Regulations implemented under the Magnuson-Stevens Act define EC species as "stocks that a Council or the Secretary has determined do not require conservation and management, but desire to list in a FMP in order to achieve ecosystem management objectives" (50 CFR 600.305(d)(13)). National Standards (NS) General guidelines state that a Council should consider a list of ten non-exhaustive list of factors when deciding whether additional stocks require Federal conservation and management (50 CFR 600.305(c)(1)). The proposed EC designation for bullet and frigate mackerel was recommended to the Council by the Council's Scientific and Statistical Committee (SSC), their Dolphin Wahoo Advisory Panel (AP), the Habitat Protection and Ecosystem-Based Management (Habitat) AP, and through extensive positive comments from the public during scoping of Amendment 12. The Dolphin Wahoo AP and Habitat AP members acknowledged that wahoo particularly target these mackerel species as prey. The AP members also stated that the Council should consider a "conservative approach" to ensure there are no major increases in the harvest of bullet mackerel and frigate mackerel in the foreseeable future as a result of any EC designation. This designation would address the Council's growing emphasis on developing ecosystem management approaches to fisheries management and advancing ecosystem management objectives in the Dolphin

Wahoo FMP.

The extent to which the low landings of bullet mackerel and frigate mackerel occur within the dolphin and wahoo fishery is unknown; however, it is unlikely that these species are often harvested in conjunction with efforts to target dolphin and wahoo, especially in the commercial sector. Bullet and frigate mackerel have largely been landed commercially in the Mid-Atlantic region using gill net, pound net, float trap, and otter trawl gear, none of which are allowable gear types in the dolphin and wahoo fishery. Recreational landings of bullet and frigate mackerel have largely occurred in the South Atlantic Region, with some limited catches reported from the Mid-Atlantic Region. Furthermore, recreational fishermen have also noted that these species are used as bait for tuna and billfish, such as blue marlin. NMFS and the Council have determined that bullet mackerel and frigate mackerel are currently not in need of conservation and management, making them eligible for consideration as EC species. This preliminary eligibility determination was done after consideration of the provisions within the NS Guidelines and requirements of the Magnuson-Stevens Act. Furthermore, adding bullet mackerel and frigate mackerel to the Dolphin Wahoo FMP as EC species meets the FMP's ecosystem management objectives (50 CFR 600.305(c)(5) and 600.310(d)(1)).

Action Contained in Amendment 12

Amendment 12 would add bullet mackerel and frigate mackerel to the Dolphin Wahoo FMP and designate them as EC species. There would be no additional management measures added to the Dolphin Wahoo FMP as a result of this EC species designation, either for bullet and frigate mackerel, or for dolphin and wahoo.

If approved and implemented, Amendment 12 and the proposed rule could be expected to result in potential indirect benefits such as increased awareness among the fishermen, fishing communities, data collecting agencies, and regulatory entities managing dolphin, wahoo, bullet mackerel, and frigate mackerel. If landings for these two mackerel species were to greatly increase in the future to unsustainable levels, fisheries managers could be made aware of the changing stock status before the stocks are depleted which may have subsequent beneficial effects on populations of several economically important predatory fish species, including dolphin, wahoo, blue marlin, and yellowfin tuna.

Proposed Rule for Amendment 12

A proposed rule to implement Amendment 12 has been drafted. In accordance with the Magnuson-Stevens Act, NMFS is evaluating the proposed rule for Amendment 12 to determine whether it is consistent with the Dolphin Wahoo FMP, the Magnuson-Stevens Act, and other applicable law. If

that determination is affirmative, NMFS will publish the proposed rule in the **Federal Register** for public review and comment.

Consideration of Public Comments

The Council has submitted Amendment 12 for Secretarial review, approval, and implementation. Comments on Amendment 12 must be received by [*insert date 60 days after date of publication in the FEDERAL REGISTER*]. Comments received during the respective comment periods, whether specifically directed to Amendment 12 or the proposed rule, will be considered by NMFS in the decision to approve, partially approve, or disapprove, Amendment 12. All comments received by NMFS on the amendment or the proposed rule during their respective comment periods will be addressed in the final rule.

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

Dated: January 14, 2021.

Kelly Denit,
Director, Office of Sustainable Fisheries,
National Marine Fisheries Service.