

critical habitat designation. See *Douglas County v. Babbitt*, 48 F.3d 1495 (9th Cir. 1995), cert. denied, 116 S. Ct. 698 (1996).

List of Subjects in 50 CFR Part 226

Endangered and threatened species, Incorporation by reference.

Dated: May 26, 1999.

Andrew A. Rosenberg,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 226 is proposed to be amended as follows:

PART 226—DESIGNATED CRITICAL HABITAT

1. The authority citation for part 226 continues to read as follows:

Authority: 16 U.S.C. 1533.

2. In § 226.205, paragraph (b) is revised to read as follows:

§ 226.205 Critical habitat for Snake River sockeye salmon, Snake River fall chinook salmon and Snake River spring/summer chinook salmon.

(b) *Sneke River Spring/Summer Chinook Salmon (*Oncorhynchus tshawytscha*)*. Geographic boundaries. Critical habitat is designated to include the Columbia River from a straight line connecting the west end of the Clatsop jetty (south jetty, Oregon side) and the west end of the Peacock jetty (north jetty, Washington side) and including all Columbia River estuarine areas and river reaches proceeding upstream to the confluence of the Columbia and Snake Rivers; all Snake River reaches from the confluence of the Columbia River upstream to Hells Canyon Dam. Critical habitat also includes river reaches presently or historically accessible (except reaches above impassable natural falls (including Napias Creek Falls), and Dworshak and Hells Canyon Dams) to Snake River spring/summer chinook salmon in the following hydrologic units: Hells Canyon, Imnaha, Lemhi, Little Salmon, Lower Grande Ronde, Lower Middle Fork Salmon, Lower Salmon, Lower Snake-Asotin, Lower Snake-Tucannon, Middle Salmon-Chamberlain, Middle Salmon-Panther, Pahsimeroi, South Fork Salmon, Upper Middle Fork Salmon, Upper Grande Ronde, Upper Salmon, Wallowa. Critical habitat borders on or passes through the following counties in Oregon: Baker, Clatsop, Columbia, Gilliam, Hood River, Morrow, Multnomah, Sherman, Umatilla, Union, Wallowa, Wasco; the following counties in Washington: Asotin, Benton, Clark, Columbia,

Cowlitz, Franklin, Garfield, Klickitat, Pacific, Skamania, Wahkiakum, Walla, Whitman; and the following counties in Idaho: Adams, Blaine, Custer, Idaho, Lemhi, Lewis, Nez Perce, Valley.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 990506120-9120-01; I.D. 020399A]

RIN 0648-AL80

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Catch Specifications

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

ACTION: Proposed rule, request for comments.

SUMMARY: In accordance with the framework procedure for adjusting management measures of the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (FMP), NMFS proposes to increase the total allowable catch (TAC) for Atlantic group king mackerel; decrease TAC for Atlantic group Spanish mackerel; revise the commercial trip limits for Atlantic group king mackerel off North Carolina and the Mid-Atlantic states, and for Gulf group king mackerel off the Florida east coast; establish a trip limit for Gulf group king mackerel in the western zone; establish a bag limit of zero Gulf group king mackerel for captain and crew on for-hire vessels; increase the minimum size limit for Atlantic and Gulf group king mackerel; and, for Atlantic group Spanish mackerel, revise the allocation of TAC between the commercial and recreational sectors and establish an incidental catch allowance for vessels using gillnets with a mesh size less than 3.5 inches (8.9 cm). The intended effects of this rule are to protect king and Spanish mackerel from overfishing and maintain healthy stocks while still allowing catches by important commercial and recreational fisheries.

DATES: Written comments must be received on or before June 17, 1999.

ADDRESSES: Comments on the proposed rule must be sent to Mark Godcharles, Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702.

Requests for copies of the environmental assessment, social impact assessment/fishery impact review (RIR) supporting aspects of this action relating to Atlantic migratory groups of king and Spanish mackerel should be sent to the South Atlantic Fishery Management Council, Southpark Building, One Southpark Circle, Suite 306, Charleston, SC 29407-4699, PHONE: 843-571-4366, FAX: 843-769-4520. Requests for comparable documents relating to Gulf group king mackerel should be sent to the Gulf of Mexico Fishery Management Council, 3018 U.S. Highway North, Suite 1000, Tampa, FL, 33619-2266, PHONE: 813-228-2815, FAX: 813-225-7015.

FOR FURTHER INFORMATION CONTACT: Mark Godcharles, 727-570-5305.

SUPPLEMENTARY INFORMATION: The fisheries for coastal migratory pelagic resources are regulated under the FMP. The FMP was prepared jointly by the Gulf of Mexico and South Atlantic Fishery Management Councils (Councils) and is implemented by regulations at 50 CFR part 622.

In accordance with the framework procedures of the FMP, the Councils made recommendations in separate regulatory amendments to the Regional Administrator, Southeast Region, NMFS (RA). The recommended changes are within the scope of the management measures that may be adjusted under the framework procedure, as specified in 50 CFR 622.48.

Proposed TACs, Allocations, and Quotas

The South Atlantic Council recommended that TACs be effective immediately for the fishing year in which they are implemented for the Atlantic groups of king and Spanish mackerel. The South Atlantic Council recommended an increase in the annual TAC for Atlantic group king mackerel from 6.80 million lb (3.08 million kg) to 8.40 million lb (3.81 million kg).

For Atlantic group Spanish mackerel, the South Atlantic Council recommended a decrease in the annual TAC from 8.00 million lb (3.63 million kg) to 6.60 million lb (2.99 million kg) and recommended that the current 50/50 allocation of TAC between commercial and recreational sectors be changed to 55 percent commercial and 45 percent recreational. The recreational fishery has consistently failed to reach

its allocation, and the increased allocation of TAC to the commercial sector would allow harvest near levels landed last season.

Consistent with the FMP's framework procedure, these recommended TAC changes are within the range of the acceptable biological catch established by the Councils and represent a conservative approach supported by their Scientific and Statistical Committees and Mackerel Advisory Panels. These TACs are consistent with current stock rebuilding programs and with the attainment of optimum yield (OY) for Atlantic group king and Spanish mackerel as provided by the FMP. The resulting quotas and allocations would be higher than recent harvest levels; consequently, no early or unexpected fishery closures or quota/allocation overruns would be likely.

Under the provisions of the FMP, the recreational and commercial fisheries are allocated a fixed percentage of the TAC. Under the established percentages for Atlantic group king mackerel and the revised percentages specified for Atlantic group Spanish mackerel in this proposed rule, the TACs for the Atlantic groups of king and Spanish mackerel would be allocated as follows:

Species/Migratory Group	m. lb.	m. kg
Atlantic Group King Mackerel - TAC	8.40	3.81
Recreational allocation (62.9%)	5.28	2.40
Commercial quota (37.1%)	3.12	1.42
Atlantic Group Spanish Mackerel - TAC	6.60	2.99
Recreational allocation (45%)	2.97	1.35
Commercial quota (55%)	3.63	1.65

Atlantic Group Spanish Mackerel: Commercial Vessel Trip Limits and Incidental Catch Allowance

The commercial sector of the Atlantic group Spanish mackerel fishery is managed under trip limits. In the southern zone (i.e., south of a line extending directly east from the Georgia/Florida boundary), the trip limits vary depending on the percentage of the adjusted quota landed. The adjusted quota is the commercial quota reduced by an amount calculated to allow continued harvest of Atlantic 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. Along with the reduced commercial quota, the

South Atlantic Council recommended that the adjusted quota be decreased from 3.75 million lb (1.70 million kg) to 3.38 million lb (1.53 million kg).

The South Atlantic Council also recommended an allowance for vessels operating in the South Atlantic or Mid-Atlantic exclusive economic zone (EEZ) to possess on board, and land in a day, up to 500 lb (227 kg) of Spanish mackerel incidentally caught in a gillnet having a mesh size less than 3.5 inches (8.9 cm), stretched mesh. The South Atlantic Council determined that such an adjustment of the regulations would be necessary to preclude discard and waste of Spanish mackerel incidentally taken in prohibited gear, maintain the multi-species nature of the South and Mid-Atlantic gillnet fisheries, and minimize the negative socioeconomic impacts on fishermen involved in these fisheries. The proposed incidental catch allowance would continue the long-time practice of possessing and landing Spanish mackerel incidentally captured in inshore and nearshore gillnet fisheries.

Gulf Group King Mackerel: Commercial Vessel Trip Limits and Recreational Bag Limits

The Gulf Council proposed a 3,000-lb (1,361-kg) commercial trip limit for Gulf group king mackerel in the western zone off Texas, Louisiana, Mississippi, and Alabama. The Council believes that the trip limit would increase the socioeconomic benefits of the available quota, reduce the intensity of derby fishing, increase vessel safety, and reduce the risks of overfishing king mackerel and other stocks that might be targeted after closure of the king mackerel fishery. The Council believes that the trip limit would prevent market gluts and would stabilize the exvessel value of king mackerel at a higher level throughout a longer harvest season.

Limiting landings per trip, and shortening trip length should result in a higher quality, more valuable product.

The South Atlantic Council proposed to increase the commercial trip limit for Gulf group king mackerel in the eastern zone, Florida east coast subzone, from 50 to 75 fish per day to optimize the opportunity for fishermen to achieve the quota while preventing early season closure. The Councils concluded that the 50-fish trip limit was too low and would lead to underutilization of the quota.

The Gulf Council recommended that the daily bag limit for Gulf group king mackerel be reduced to zero fish for the captain and crew on for-hire vessels. The Gulf Council determined that the zero-fish bag limit for captain and crew

on for-hire vessels would be necessary to reduce harvest and prevent overrun of the recreational allocation and TAC. Representatives of the for-hire industry have indicated that the sale of king mackerel taken under the recreational bag limit represents important income to their businesses.

Atlantic Group King Mackerel: Commercial Vessel Trip Limits

The South Atlantic Council proposed to reduce the commercial trip limit for Atlantic group king mackerel off North Carolina and the Mid-Atlantic states from 3,500 lb (1,588 kg) to 2,000 lb (907 kg) per day. Further, the trip limit would reduce to 1,000 lb (454 kg) per day if 80 percent of the quota is taken before February 1. In response to fishermen's requests, the South Atlantic Council has proposed this revision to prevent early closure of the fishery and preserve a portion of the quota for the Lenten market that usually provides premium market value, an important source of annual income.

Atlantic Group and Gulf Group King Mackerel: Minimum Size Limits

The Gulf and South Atlantic Councils proposed to increase the minimum size limit for Gulf group and Atlantic group king mackerel from 20 to 24 inches (50.8 to 60.1 cm). Besides reducing harvest of immature fish, the increased minimum size limit would decrease recreational harvest and prevent overrun of the recreational allocation and TAC.

The RA initially concurs that the Council's recommendations are necessary to protect the king and Spanish mackerel stocks and prevent overfishing and that they are consistent with the FMP, the Magnuson-Stevens Fishery Conservation and Management Act, and other applicable law. Accordingly, the Councils' recommended changes are published for comment.

Classification

This proposed rule has been determined to be not significant for purposes of E.O. 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The determination based on the RIR - Threshold Analyses, is summarized below. Copies of these analyses are available (see ADDRESSES).

There are 3,819 commercial fishing and for-hire small business entities that have permits to harvest coastal migratory species

and more than 20 percent of these are expected to be impacted to some degree, but not to a significant degree. A Gulf Council proposal for a zero bag limit of Gulf group king mackerel for the captain and crew of for-hire businesses will have an effect in the Florida Keys because some for-hire entities sell fish caught under the bag limit, but will have very minor effects in other areas. The maximum effect would be to decrease annual gross revenues by 2.6 to 4.3 percent and that would occur only if all the sales of fish were attributed to king mackerel. Both Councils propose to increase the minimum size limit for king mackerel from 20 to 24 inches (51 to 61 cm) fork length (FL). The RIR findings were that most commercial catches are composed of fish that exceed 24 inches FL and the effects are expected to be negligible. The effect on for-hire operations would be a reduction of 10 percent in the recreational catch of king mackerel by their clients, but there are a number of substitute species, and the overall effect is expected to be small. A Gulf Council proposal for a trip limit of 3,000 lb (1361 kg) of king mackerel for fishermen in the Gulf western zone would not create a revenue impact because the commercial quota would be taken with or without the trip limit.

A South Atlantic Council proposal to increase TAC for Atlantic group king mackerel from 6.8 to 8.4 million lb (3.1 to 3.8 million kg) may have no effect because the current quota may not be met, but could provide for an annual revenue gain of \$496,000 if all the increased quota is taken. The proposal to change the king mackerel trip limit for the North Carolina/Mid-Atlantic area from 3,500 to 2,000 lb (1,586 to 907 kg) per day, however, has a maximum estimated decrease in annual revenue of \$57,000 for the fishermen in that area.

The South Atlantic Council proposal to decrease TAC for Atlantic group Spanish mackerel from 8.0 to 6.6 million lb (3.6 to 3.0 million kg) and to change the allocation of TAC to 55 percent commercial and 45 percent recreational is expected to result in an annual revenue loss of \$174,000, if fishing and market conditions and implementation of the proposed 3.63 million-lb (1.65 million-kg) quota would restrain commercial harvest below the existing 4.0 million-lb (1.8 million-kg) quota level. Offsetting this potential loss in sales is a gain in revenues that would result from the proposal to allow a 500-lb (227-kg) take of Atlantic group Spanish mackerel incidentally captured in gillnets constructed of webbing less than the required minimum stretched mesh size of 3.5 inches (8.9 cm).

None of the proposals described here would result in increased compliance costs of reporting or record keeping, and there would be no differential large business versus small business impacts because the entire population is composed of small businesses. Additionally, the proposals would not create new capital costs, and no businesses would be expected to cease operations if the proposals are implemented.

None of the proposals are expected to affect changes in revenue that would result in a negative effect of greater than 5 percent on gross revenues for the identified small

businesses. Accordingly, the results of the threshold analyses lead to a determination that the criteria for a significant impact on a substantial number of firms are not met, and an IRFA was not prepared.

List of Subjects in 50 CFR Part 622

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

Dated: May 26, 1999.

Andrew A. Rosenberg,

Deputy Assistant Administrator for Fisheries, 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.*

2. In § 622.37, paragraph (c)(2) is revised to read as follows:

§ 622.37 Minimum sizes.

* * * * *

(c) * * *

(2) King mackerel in the Gulf, South Atlantic, or Mid-Atlantic—24 inches (61.0 cm), fork length, except that a vessel fishing under a quota for king mackerel specified in § 622.42(c)(1) may possess undersized king mackerel in quantities not exceeding 5 percent, by weight, of the king mackerel on board.

* * * * *

3. In § 622.39, paragraph (c)(1)(ii) is revised to read as follows:

§ 622.39 Bag and possession limits.

* * * * *

(c) * * *

(1) * * *

(ii) Gulf migratory group king mackerel—2, except that for an operator or crew member of a charter vessel or headboat, the bag limit is 0.

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4. In § 622.41, paragraph (c)(3)(ii)(A) is revised to read as follows:

§ 622.41 Species specific limitations.

* * * * *

(c) * * *

(3) * * *

(ii) * * * (A) The minimum allowable mesh size for a gillnet used to fish for Spanish mackerel in the Gulf, Mid-Atlantic, or South Atlantic EEZ is 3.5 inches (8.9 cm), stretched mesh.

(1) A vessel in the Gulf EEZ, or having fished on a trip in the Gulf EEZ, with a gillnet on board that has a mesh size less than 3.5 inches (8.9 cm), stretched

mesh, may not possess on that trip any Spanish mackerel.

(2) A vessel in the South Atlantic or Mid-Atlantic EEZ, or having fished on a trip in such EEZ, with a gillnet on board that has a mesh size less than 3.5 inches (8.9 cm), stretched mesh, may possess or land on the day of that trip no more than 500 lb (227 kg) of incidentally caught Spanish mackerel.

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5. In § 622.42, paragraphs (c)(1)(ii) and (c)(2)(ii) are revised to read as follows:

§ 622.42 Quotas.

* * * * *

(c) * * *

(1) * * *

(ii) *Atlantic migratory group.* The quota for the Atlantic migratory group of king mackerel is 3.12 million lb (1.42 million kg). No more than 0.40 million lb (0.18 million kg) may be harvested by purse seines.

* * * * *

(2) * * *

(ii) *Atlantic migratory group.* The quota for the Atlantic migratory group of Spanish mackerel is 3.63 million lb (1.65 million kg).

* * * * *

6. In § 622.44, paragraphs (a)(1)(i) through (a)(1)(iv) are redesignated as paragraphs (a)(1)(ii) through (a)(1)(v), respectively; a new paragraph (a)(1)(i) and paragraph (a)(2)(iv) are added; and newly redesignated paragraph (a)(1)(ii), paragraph (a)(2) introductory text, paragraph (a)(2)(i), paragraph (a)(2)(ii) heading, and the first sentence of paragraph (b)(2) are revised to read as follows:

§ 622.44 Commercial trip limits.

* * * * *

(a) * * *

(1) * * *

(i) North of a line extending in a direction of 135°34'55" from true north from the North Carolina/South Carolina boundary, as marked by the border station on Bird Island at 33°51'07.9" N. lat., 78°32'32.6" W. long., king mackerel in or from the EEZ may not be possessed on board or landed from a vessel in a day:

(A) From April 1, each fishing year, until 80 percent of the quota has been harvested—in amounts exceeding 2,000 lb (907 kg) per day.

(B) From the date that 80 percent of the quota has been harvested, until a closure of the fishery has been effected under § 622.43(a)—in amounts exceeding 1,000 lb (454 kg) per day.

(ii) In the area between 29°25' N. lat. (which is a line directly east from the

Flagler/Volusia County, FL, boundary) and a line extending in a direction of 135°34'55" from true north from the North Carolina/South Carolina boundary, as marked by the border station on Bird Island at 33°51'07.9" N. lat., 78°32'32.6" W. long., king mackerel in or from the EEZ may not be possessed on board or landed from a vessel in a day in amounts exceeding 3,500 lb (1,588 kg).

* * * * *

(2) Gulf Group. Commercial trip limits are established in the eastern and western zones as follows. (See § 622.42(c)(1)(i) for specification of the eastern and western zones and § 622.42(c)(1)(i)(A)(3) for specifications of the subzones in the eastern zone.)

(i) *Eastern zone—Florida east coast subzone.* In the Florida east coast subzone, king mackerel in or from the EEZ may be possessed on board or landed from a vessel for which a commercial permit for king mackerel has been issued, as required under § 622.4(a)(2)(iii), from November 1 each fishing year until the subzone's fishing year quota of king mackerel has been harvested or until March 31, whichever occurs first, in amounts not exceeding 75 fish per day.

(ii) *Eastern zone—Florida west coast subzone—** * *

* * * * *

(iv) *Western zone.* In the western zone, king mackerel in or from the EEZ may be possessed on board or landed

from a vessel for which a commercial permit for king mackerel has been issued, as required under § 622.4(a)(2)(ii), from July 1, each fishing year, until a closure of the western zone's fishery has been effected under § 622.43(a)—in amounts not exceeding 3,000 lb (1,361 kg) per day.

(b) * * *

(2) For the purpose of paragraph (b)(1)(ii) of this section, the adjusted quota is 3.38 million lb (1.53 million kg). * * *

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