

Environmental Assessment, a Regulatory Flexibility Act Analysis (RFAA), and a Regulatory Impact Review (RIR), should be sent to the Gulf of Mexico Fishery Management Council, 3018 U.S. Highway North, Suite 1000, Tampa, FL 33619-2266, telephone: 813-228-2815, fax: 813-225-7015, e-mail: gulfcouncil@noaa.gov.

FOR FURTHER INFORMATION CONTACT: Dr. Steve Branstetter, telephone: 727-570-5796, fax: 727-570-5583, e-mail: Steve.Branstetter@noaa.gov.

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

In accordance with the FMP's framework procedure, the Council has submitted to the Regional Administrator, Southeast Region, NMFS, a regulatory amendment containing recommendations for changes in designations of stock status criteria for Gulf migratory groups of king and Spanish mackerel and for a Gulf migratory group of cobia (to be

designated via subsequent plan amendment). The most recent scientific evidence indicates that the cobia stock is comprised of separate migratory groups in the Gulf of Mexico and Atlantic. However, the FMP identifies only a single cobia stock. The establishment of separate migratory groups of cobia will require that the FMP be amended. Therefore, implementation of the stock status criteria for a Gulf migratory group of cobia would be deferred pending the development of an amendment to the FMP.

Section 303 of the Magnuson-Stevens Act requires that the regional fishery management councils: (1) assess the condition of managed stocks, (2) specify within their fishery management plans objective and measurable criteria for identifying when the stocks are overfished and when overfishing is occurring (referred to by NMFS as stock status determination criteria), and (3) amend their fishery management plans to include measures to rebuild overfished stocks and maintain them at healthy levels capable of producing MSY. NMFS' national standard guidelines (NSGs) direct the councils to meet these statutory requirements by

incorporating into each FMP estimates of certain biomass-based parameters for each stock, including a designation of the stock biomass that will produce MSY (BMSY).

On November 17, 1999, NMFS notified the Council that it had partially approved the Council's Generic Sustainable Fisheries Act Amendment. In that notification, NMFS approved the designation and definition of an MFMT for CMP fish stocks managed under the jurisdiction of the Council, but disapproved the proposed designations of MSY, OY, and MSST because they were not biomass-based, as recommended by the NSGs. Since that time, NMFS has worked cooperatively with the Council to develop acceptable stock status criteria for the Gulf migratory groups of those CMP stocks.

Accordingly, this proposed rule would establish biomass-based reference points, as identified in the table below, for MSY, OY, and MSST, and would amend the existing designations of MFMT for Gulf migratory group king mackerel, Gulf migratory group Spanish mackerel, and a (to be designated) Gulf migratory group of cobia.

	Gulf group king mackerel	Gulf group Spanish mackerel	Gulf group cobia ¹
MSY ²	yield at $F_{30\%SPR}$ (currently 10.7 million lb or 4.85 million kg).	yield @ $F_{30\%SPR}$ (currently 8.7 million lb or 3.95 million kg).	yield @ F_{MSY} (currently 1.49 million lb or 0.676 million kg)
OY	yield at $F_{OY} = 0.85 \cdot F_{MSY}$ (currently 10.2 million lb or 4.63 million kg).	yield at $F_{OY} = 0.75 \cdot F_{MSY}$ (currently 8.3 million lb or 3.76 million kg).	yield @ $F_{OY} = 0.75 \cdot F_{MSY}$ (currently 1.45 million lb or 0.658 million kg)
MFMT	$F_{30\%SPR} = F_{MSY}$	$F_{30\%SPR} = F_{MSY}$	F_{MSY}
MSST ³	$(1-M) \cdot B_{MSY}$ or 80% of B_{MSY}	$(1-M) \cdot B_{MSY}$ or 70% of B_{MSY}	$(1-M) \cdot B_{MSY}$ or 70% of B_{MSY}
overfished	50% probability $F_{current} > F_{MSY}$	50% probability $F_{current} > F_{MSY}$	50% probability $F_{current} > F_{MSY}$
overfishing	50% probability $B_{current} < MSST$	50% probability $B_{current} < MSST$	50% probability $B_{current} < MSST$

¹ Implementation deferred pending formal designation of a Gulf migratory group of cobia through an amendment to the FMP.

² F = fishing mortality rate; SPR refers to spawning potential ratio

³ M, or natural mortality, is estimated at 0.20 for king mackerel, and 0.30 for both Spanish mackerel and cobia. $B_{current}$ represents the current estimates of stock biomass; B_{MSY} represents the estimated stock biomass required to produce MSY

NMFS invites public comment on these proposed parameters. Comments received by November 13, 2003 will be considered by NMFS in its decision to approve or disapprove the action identified in this proposed rule. Comments received after that date will not be considered by NMFS in this decision. NMFS decision will be based on determinations regarding the consistency of the proposed provisions with the FMP, the Magnuson-Stevens Act, and other applicable law, as well as the consideration of comments received during the comment period on this proposed rule. Approved population parameters would be considered legitimate measures of the FMP, but would not appear in codified text.

Classification

This proposed 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 that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The basis for this determination is summarized as follows.

The Magnuson-Stevens Act provides the statutory basis for the proposed rule. The proposed rule would establish benchmarks and status criteria for Gulf migratory groups of king and Spanish mackerel, and a pending designation of a Gulf migratory group of cobia. The establishment of these stock status criteria would allow more accurate

assessments regarding the health of these fish stocks, prevent overfishing, and provide optimum benefits to the fisheries and the public. No projected reporting, record keeping or other compliance requirements are proposed. No duplicative, overlapping or conflicting Federal rules have been identified.

In the Gulf area, 1,440 commercial vessels have permits to fish for king mackerel. These vessel owners have a median net (taxable) income of \$3,670. These vessels operate in multiple fisheries and are not, therefore, totally dependent upon sales of coastal migratory pelagic species. There are 113 for-hire vessels that only have a permit for coastal migratory pelagic species, and 1,403 for-hire vessels that possess both reef fish and coastal migratory pelagic permits. Most of the for-hire craft are traditional charter boats, and fishing for coastal migratory pelagic species comprises only a portion of their total effort and revenues. The median