Manufacturer	Subject Lines
SUBARU	Forester
	Impreza
	Legacy
	B9 Tribeca
	Outback
	XV Crosstrek[1]
SUZUKI	Kizashi
	XL-7
TESLA	Model S[2]
TOYOTA	Camry
	Corolla
	Lexus ES
	Lexus GS
	Lexus LS
	Lexus SC
	Prius[1]
VOLKSWAGEN	Audi A3
	Audi A4
	A4 Allroad MPV[1]
	Audi A6
	Audi A8
	Audi Q5
	New Beetle
	Golf/Rabbit/GTI/R32/R
	Jetta
	Passat
	Tiguan

[1] Granted an exemption from the parts marking requirements beginning with MY 2013.

[2] Granted an exemption from the parts marking requirements beginning with MY 2012.

Issued on: May 29, 2012.

Nathaniel Beuse,

Acting Associate Administrator for Rulemaking.

[FR Doc. 2012–13424 Filed 6–1–12; 8:45 am]

BILLING CODE 4910–59–C

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 226

[Docket No. 120521436–2436–01]

RIN 0648–XA998

Listing Endangered and Threatened Wildlife and Designating Critical Habitat; 12-Month Determination on How To Proceed With a Petition To Revise Designated Critical Habitat for the Endangered Leatherback Sea Turtle

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

ACTION: Notice of 12-month determination.

SUMMARY: We, the National Marine Fisheries Service (NMFS), announce our 12-month determination on how to proceed with a petition to revise the critical habitat designation for leatherback sea turtles pursuant to the Endangered Species Act (ESA) of 1973, as amended. The petition from Sierra Club requested a revision of the existing critical habitat designation for the leatherback sea turtle by adding the coastline and offshore waters of the Northeast Ecological Corridor in Puerto Rico. Based on the lack of reasonably

defined physical or biological features that are essential to the leatherback turtle's conservation and that may require special management considerations or protection, we are denying the petitioned revision.

DATES: The finding announced in this document was made on June 4, 2012.

ADDRESSES: Information and supporting documentation that we used in preparing this finding are available for public inspection by appointment, during normal business hours (9:00 a.m.–5:00 p.m. EDT) at the NMFS, Southeast Regional Office, Protected Resources Division, 263 13th Ave. South, St. Petersburg, FL 33701–5505.

FOR FURTHER INFORMATION CONTACT: Dennis Klemm, NMFS, Southeast Regional Office, at the address above, by phone (727) 824–5312, or email *Dennis.klemm@noaa.gov*.

SUPPLEMENTARY INFORMATION:

Background

On November 3, 2010, we received a petition from Sierra Club to revise designated critical habitat for leatherback sea turtles to include certain marine areas off the coast of Puerto Rico. This was a second, more detailed petition submitted by Sierra Club following our finding that a previous petition received on February 23, 2010, did not present substantial information indicating the petitioned revision may be warranted (negative 90-day finding; 75 FR 41436, July 16, 2010). On May 5, 2011, we published a positive 90-day finding concluding that the second petition presented substantial scientific information indicating the requested revision may be warranted (76 FR 25660).

ESA Statutory and Regulatory Provisions on Petitions To Revise Critical Habitat

Critical habitat is defined in section 3(5)(A) of the ESA (16 U.S.C. 1532(3)) as: (1) the specific areas within the geographical area occupied by the species, at the time it is listed * * * on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protection; and (2) specific areas outside the geographical area occupied by the species at the time it is listed * * * upon a determination by the Secretary [of Commerce] that such areas are essential for the conservation of the species. Section 4(a)(3)(A)(i) of the ESA (16 U.S.C. 1533(a)(3)(A)(i)) requires that critical habitat shall be initially designated at the time of listing a species as threatened or endangered. The ESA further provides that NMFS may revise critical habitat from time-to-time as appropriate (section 4(a)(3)(A)(ii); 16 U.S.C. 1533(a)(3)(A)(ii)), and allows interested persons to petition for revisions (section 4(b)). Section 4(b)(3)(D) of the ESA (16 U.S.C. 1533(b)(3)(D)), requires, to the maximum extent practicable, that within 90 days of receiving a petition to revise a critical habitat designation, the Secretary of Commerce (Secretary) make a finding as to whether the petition presents substantial scientific information indicating that the revision may be warranted. The Secretary must then determine how he intends to proceed with the requested revision within 12 months after receiving the petition and promptly publish notice of such intention in the **Federal Register**. In contrast to the ESA's requirements for findings on petitions to list species, there are no guidelines or required findings in the ESA or implementing regulations that govern the substance of NMFS' decision on how to proceed with a petition to revise critical habitat. Thus, NMFS has broad discretion in determining when and whether to revise critical habitat.

Status and Biology of the Leatherback Sea Turtle

On June 2, 1970, the leatherback sea turtle was listed as endangered throughout its entire range under the Endangered Species Conservation Act of 1969, a precursor to the ESA (35 FR 8491). Leatherback sea turtles are the largest living turtles and range farther than any other sea turtle species. Leatherbacks are widely distributed throughout the oceans of the world and are found in waters of the Atlantic, Pacific, and Indian Oceans (Ernst and Barbour, 1972). The large size of adult leatherbacks and their tolerance of relatively low temperatures allows them to occur in northern waters such as off Labrador and in the Barents Sea (NMFS and U.S. Fish and Wildlife Service (USFWS), 1995). The leatherback is the only sea turtle that lacks a hard, bony shell. A leatherback's top shell (carapace) is approximately 1.5 inches (4 cm) thick and consists of leathery, oil-saturated connective tissue overlaying loosely interlocking dermal bones. The carapace has seven longitudinal ridges and tapers to a blunt point. Adult leatherbacks forage in temperate and subpolar regions from 71° N to 47° S latitude in all oceans and undergo extensive migrations to and from their tropical nesting beaches. Leatherbacks are deep divers, with recorded dives to depths in excess of 1,000 m (Eckert *et al.,* 1989; Hays *et al.,* 2004). When the hatchlings leave the nesting beaches, they move offshore but eventually use both coastal and pelagic waters. Very little is known about the pelagic habits of hatchlings and juveniles, and they have not been documented to be associated with *Sargassum* areas as are other sea turtle species.

The most recent assessment of leatherback populations in the Atlantic Ocean divided the rookeries into seven stocks based on nesting beach: Florida, Northern Caribbean (including Puerto Rico), Western Caribbean, Southern Caribbean/Guianas, Brazil, West Africa, and South Africa (Turtle Expert Working Group (TEWG), 2007). The population estimate derived from the recent assessment for the North Atlantic stocks ranges between 34,000 and 90,000 adult turtles, including 20,000 to 56,000 adult females (TEWG, 2007). While data for leatherbacks in much of the Pacific Ocean indicate low population numbers and a substantial declining trend, the data for leatherbacks in the Atlantic Ocean indicate an overall trend of stable or increasing abundance. The data indicate long-term stable or increasing nesting populations for all of the stocks except West Africa (no long-term data are available) and the Western Caribbean (a slightly-declining post-1990 trend; TEWG, 2007).

Existing Critical Habitat and the Petition To Revise Leatherback Critical Habitat

Critical habitat for the leatherback sea turtle was designated by the USFWS at Sandy Point Beach, St. Croix, U.S. Virgin Islands on March 23, 1978 (43 FR 12050), and subsequently offshore of that beach on March 23, 1979, by NMFS (44 FR 17710). These designations occurred without identifying physical or biological features that are essential to the leatherback's conservation with specificity, as was the case for other early critical habitat designations. More recently, we designated critical habitat for leatherback sea turtles in the Pacific Ocean (77 FR 4170; January 26, 2012). This designation includes approximately 16,910 square miles (43,798 square km) stretching along the California coast from Point Arena to Point Arguello east of the 3,000 meter depth contour; and 25,004 square miles (64,760 square km) stretching from Cape Flattery, Washington to Cape Blanco, Oregon east of the 2,000 meter depth contour. The areas designated as critical habitat in the Pacific Ocean contain a single identified essential biological feature—the leatherback's specific prey,

primarily scyphomedusae of the order Semaeostomeae (Chrysaora, Aurelia, Phacellophora, and Cyanea).

On February 23, 2010, we received a petition from Sierra Club asking us and the USFWS to revise critical habitat for the endangered leatherback sea turtle. The portion of the petitioned critical habitat under our jurisdiction was described as ''the waters off the coastline of the Northeast Ecological Corridor of Puerto Rico, sufficient to protect leatherbacks using the Northeast Ecological Corridor, and extending at least to the hundred fathom contour, or 9 nautical miles offshore, whichever is further, and including the existing marine extensions of Espiritu Santo, Cabezas the San Juan, and Arrecifes de la Cordillera Nature Reserves.'' The petition also stated that these near shore waters ''provide room for turtles to mate and access the beaches, and for hatchlings and adults to leave the beaches.'' We found that the petition did not present substantial scientific information indicating that the petitioned revision may be warranted, in part because in our judgment specific qualities were required to explain how the proposed open space features in the marine environment off of Puerto Rico are essential to the leatherback's conservation, and how or why the features themselves may require special management considerations or protection (75 FR 41,436; July 16, 2010).

Sierra Club submitted a second petition on November 3, 2010, that contained additional information and incorporated the earlier petition by reference. The petition describes the area as containing the following three essential features (which the petitioner refers to as primary constituent elements (PCEs):

(i) Migratory pathway conditions to allow for safe and timely passage and access to/from/within nesting sites at San Miguel, Paulinas, and Convento Beaches in the Northeast Ecological Corridor of Puerto Rico.

(ii) Migratory pathway conditions and open ocean conditions to allow for safe and timely passage and access to/from/within breeding sites offshore of the nesting sites at San Miguel, Paulinas, and Convento Beaches in the Northeast Ecological Corridor of Puerto Rico.

(iii) Water quality to support normal growth, reproduction, development, viability, and health.

The petition also describes the minimum requested boundaries of the critical habitat by the following coordinates:

(1) 65.807° W, 18.425° N
(2) 65.697° W, 18.601° N
(3) 65.489° W, 18.581° N
(4) 65.435° W, 18.400° N
(5) 65.631° W, 18.276° N

The petition states that the identified coastal waters must be designated as critical habitat to ''provide room for turtles to mate and access the beaches, and for hatchlings and adults to leave the beaches.'' The petition also cites our proposed rule to designate critical habitat for leatherback sea turtles in the Pacific Ocean (75 FR 319; January 5, 2010) as support for the existence of similar essential features off of Puerto Rico. Specifically, the petition states that the ''migratory pathway conditions to allow for safe and timely passage and access to/from/within high use foraging areas'' in that proposed rule are ''for all intents and purposes, identical to the area 'sufficient to protect leatherbacks using the Northeast Ecological Corridor' which the Sierra Club identified.'' The petition provides information on adult leatherback use of the petitioned area consisting of satellite tagging data from 1998–2003 on 10 turtles. On May 5, 2011, we published our determination that the second petition presented substantial information indicating that the revision may be warranted and that further review was required to determine how to proceed with the petition (76 FR 25660).

Analysis of the Petition

The ESA provides us with broad discretion with respect to revising designated critical habitat, allowing us to determine when revisions are appropriate and how to respond to petitions to revise critical habitat designations. Consideration of the following threshold factors was determinative in our decision on how to proceed with Sierra Club's petition: whether the petitioned areas meet the definition of critical habitat under the ESA and if so, the potential conservation benefit of the petitioned revision; and the time required to complete a revision and how that might impact other ongoing or planned conservation activities that would also benefit leatherbacks.

We first considered whether the available information for leatherbacks indicates that areas petitioned contain discernible physical or biological features that are essential to the leatherback's conservation and which may require special management considerations or protection. In other words, we looked at whether the petitioned area meets the ESA's definition of critical habitat in section 3(5)(A). As discussed in further detail below, we determined that there is insufficient information to adequately identify essential features within the area petitioned for leatherbacks.

Of the three proposed essential features in the petition, two consist of ''migratory pathway conditions,'' to, from and within nesting and breeding sites respectively. Sierra Club's argument for designation of these essential features is based largely on adult leatherback presence in those waters and general information on what the leatherbacks may be doing in those areas, rather than on any specific qualities of the physical and biological features of the habitat. According to the petitioner, the request for revision ''focuses on protecting migration space, here to allow leatherbacks to reach the Corridor nesting beaches. Because, as NOAA acknowledges, leatherbacks appear to mate 'in areas adjacent to nesting beaches,' it also seeks to protect space for these activities.'' The petition then cites 50 CFR 424.12(b), which states that NMFS ''shall consider sites for breeding, reproduction, [and] rearing of offspring as critical habitat.'' As further support for designation of the ''migratory pathway'' features, the petition draws an analogy with one of the essential features in the proposed critical habitat designation for leatherback sea turtles in the Pacific Ocean (75 FR 319,330; January 5, 2010).

In the proposed designation of critical habitat in the Pacific Ocean, we identified ''migratory pathway conditions to allow for safe and timely passage and access to/from/within high use foraging areas'' as an essential feature. This essential feature was proposed in recognition of the fact that in order to complete their life history leatherback turtles must migrate through the offshore areas to access nearshore foraging areas. However, the ''migratory pathway conditions'' essential feature was removed from the final rule designating critical habitat for leatherback sea turtles in the Pacific Ocean (77 FR 4170; January 26, 2012). We concluded in the final rule that without further data regarding specific, geographically defined migratory corridors or the biological or physical features influencing migration to, from and among forage areas, we could not identify specific migratory conditions in any area under consideration. Based on a lack of information received, and on peer review and other comments, we found that there was insufficient information to produce a reasonable description of the physical and biological feature(s) itself, allow a reasonable demonstration of how the feature is essential to conservation of the leatherback sea turtle, provide an effective basis for identifying ''specific

areas'' on which the feature is found, or inform our identification of the types of activities that might presently or prospectively pose a threat to the feature such that special management consideration or protections might be necessary. Similar considerations led to our determination not to proceed with Sierra Club's petition, as discussed below.

In their petition, Sierra Club identifies an area off of a known nesting beach, delineated by the presence of tagged individual turtles, and states the general understanding in the scientific community that leatherbacks mate off of or near nesting beaches, and therefore concludes that the space within the delineated area is an essential feature. We reviewed the available satellite tag data, which demonstrate that there is some leatherback use of the waters in the area, as would be expected given the proximity to a nesting beach and leatherback use of Caribbean waters in general. Sierra Club states that the data, from 10 total turtles over a 5-year period, show that areas in the vicinity of nesting beaches constitute areas occupied by turtles during the internesting period. Sierra Club's comment in the petition (footnote 9, page 7) that ''nesting and monitoring data show that leatherbacks shift between the Corridor and Culebra beaches indicating that ''the utilization area is probably broader than these data suggests, extending to embrace both regions,'' indicates that leatherback nest site fidelity is not fixed and that internesting areas are not confined to the waters immediately off the nesting beach. A review of satellite tracking research by Godley *et al.* (2008) and the studies they cited, demonstrates that leatherback sea turtles, more so than the hardshell sea turtle species, often use extensive areas between each nesting activity (Eckert, 2006; Eckert *et al.,* 2006; Georges *et al.,* 2007; Hitipeuw *et al.,* 2007), thus also raising questions about the importance of the petitioned area as internesting habitat. Leatherback internesting movements, in fact, can cover continental shelf waters over several hundred kilometers (Keinath and Music, 1993), increasing the difficulty of discerning what physical or biological features are associated with the interesting stage or interesting behaviors or needs. Witt *et al.* (2008) specifically cites the wide-ranging internesting movements of leatherbacks as a significant impediment to designing effective marine protected areas or other protective measures for leatherback rookeries. Most importantly, while providing occurrence and movement information, the available data do not indicate whether there are any physical or biological features in the petitioned areas with specific, defining qualities, parameters or values that help explain how or why any such features are essential to the leatherback's conservation. All the space within an area delineated by the presence of tagged adult turtles does not necessarily meet the ESA's definition of critical habitat. As with the adult leatherbacks, the petition does not indicate what specific feature of the habitat utilized by hatchlings is essential to the leatherback's conservation and may require special management considerations or protections, and thus would constitute critical habitat.

As support for the third proposed essential feature, ''water quality to support normal growth, reproduction, development, viability, and health,'' the petitioner cites the prevalence of marine debris ingestion by leatherbacks, along with preliminary data showing that some leatherbacks have high organochlorine and heavy metal concentrations, and speculation that low hatching success on a French Guiana beach may be explained by high levels of organochlorines found in the sand. While this information indicates that pollutants and contaminants can cause harm to leatherbacks, it does not describe parameters of water quality itself that are needed for the conservation of leatherback sea turtles: we currently lack information to determine the relative impact and importance of water quality directly on the behavior, growth or health of leatherback sea turtles. We also note that habitats used for internesting activities off nesting beaches like those in the petition are not long-term residence habitats nor do they serve as important foraging grounds (if any foraging occurs at all), and therefore the petitioned area would not constitute an area of significant exposure to such contaminants. While ingestion of marine debris and potential chemical pollutant accumulation is a recognized source of adverse impacts to leatherbacks, they are a wide ranging species. The problem is more one of accumulation throughout their life cycle, especially from foraging on prey that has accumulated the pollutants, and not short-term exposure in any given location.

The existence of leatherback sea turtles in the waters of the Northeast Ecological Corridor is not, in and of itself, a physical and biological feature essential to the conservation of the species. The petition does not indicate the specific, identifiable habitat features of these waters that are essential to the leatherback sea turtle's conservation, other than their proximity to the nesting beach and the need for ''room'' to travel, nor does it identify how any such specific features may require special management considerations or protection. Given these shortcomings in meeting the ESA's definition of critical habitat, we also concluded that little conservation benefit to leatherback sea turtles would result from accepting Sierra Club's petition; for example, the lack of distinct essential habitat features would not provide a basis for meaningful analysis of future federal actions under section 7 of the ESA. In light of these factors, we do not believe that dedication of ESA program time and resources to further work on Sierra Club's petition is appropriate. Further work on this petition would divert resources from ongoing work expected to provide significant benefits to sea turtle species including leatherbacks, such as ongoing scoping and rulemaking to reduce turtle capture and mortality in a variety of fisheries.

How We Intend To Proceed With the Petitioned Revision of Critical Habitat

Based on our review as summarized above, we have decided to deny the petition. However, we and the USFWS have planned to jointly conduct a series of status reviews for each listed sea turtle (except Kemp's ridley). As part of these reviews, we will consider whether designation or revision of critical habitat (as applicable to the species) is an appropriate exercise of our discretion to take these actions. However, should the listing classification for leatherbacks be changed through rulemaking subsequent to the status review to include distinct population segments, we would be required to designate critical habitat to the maximum extent prudent and determinable. Conducting a review of critical habitat for leatherback sea turtles in this context will allow a more holistic, thorough examination of all in-water habitats to identify appropriate critical habitat across the species' range.

References Cited

A complete list of references cited is available upon request from the NMFS Southeast Regional Office (see **FOR FURTHER INFORMATION CONTACT**).

Authority: The authority for this action is the ESA, as amended (16 U.S.C. 1533 *et seq.*).

Dated: May 30, 2012.

Alan D. Risenhoover,

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

[FR Doc. 2012–13528 Filed 6–1–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 120417412–2412–01]

RIN 0648–XCO36

Accountability Measures for the Recreational Sector of Gray Triggerfish in the Gulf of Mexico for the 2012 Fishing Year

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS implements accountability measures (AMs) for the recreational sector of gray triggerfish in the Gulf of Mexico (Gulf) for the 2012 fishing year through this final temporary rule. Based on the projected recreational landings estimates, NMFS determined that the recreational annual catch target (ACT) for Gulf gray triggerfish will be met by June 11, 2012. Therefore, NMFS closes the recreational sector for Gulf gray triggerfish on June 11, 2012, and it will remain closed through December 31, 2012. This action is necessary to reduce overfishing of the Gulf gray triggerfish resource.

DATES: This rule is effective 12:01 a.m., local time on June 11, 2012, until 12:01 a.m., local time on January 1, 2013.

ADDRESSES: Electronic copies of documents supporting the final temporary rule implementing gray triggerfish management measures (77 FR 28308, May 14, 2012), which include a draft environmental impact statement and a regulatory flexibility analysis, may be obtained from the Southeast Regional Office Web site at *http://sero.nmfs.noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Peter Hood, telephone: 727–824–5305 or email: *Peter.Hood@noaa.gov.*

SUPPLEMENTARY INFORMATION: The reef fish fishery of the Gulf is managed under the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP). The FMP was prepared by the Council and is 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 Magnuson-Stevens Act requires NMFS and regional fishery management councils to prevent overfishing and achieve, on a continuing basis, the optimum yield from federally managed fish stocks. These mandates are intended to ensure that 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. To further this goal, the Magnuson-Stevens Act requires fishery managers to end overfishing of stocks and to minimize bycatch and bycatch mortality to the extent practicable. To accomplish this, the Magnuson-Stevens Act implemented new requirements that annual catch limits (ACLs) and AMs be established to end overfishing and prevent overfishing from occurring. AMs are management controls to prevent ACLs from being exceeded, and to correct or mitigate overages of the ACL if they occur.

The Southeast Data, Assessment, and Review (SEDAR) completed a benchmark stock assessment for gray triggerfish in 2006 (SEDAR 9). SEDAR 9 indicated that the gray triggerfish stock was both overfished and possibly undergoing overfishing. Subsequently, Amendment 30A to the FMP established a gray triggerfish rebuilding plan beginning in the 2008 fishing year (73 FR 38139, July 3, 2008). In 2011, a SEDAR update stock assessment for gray triggerfish determined that the gray triggerfish stock was still overfished and was additionally undergoing overfishing. The 2011 SEDAR update stock assessment indicated the 2008 gray triggerfish rebuilding plan had not made adequate progress toward ending overfishing and rebuilding the stock as described in the rebuilding plan in Amendment 30A to the FMP.

The Council is developing more permanent measures to end overfishing and rebuild the gray triggerfish stock in Amendment 37 to the FMP. However, these measures will not likely be implemented until the end of the 2012 fishing year or at the beginning of the 2013 fishing year. Therefore, on May 14, 2012, NMFS published a final temporary rule to reduce overfishing of gray triggerfish on an interim basis (77 FR 28308). The final temporary rule is effective May 14, 2012, through November 10, 2012.

In Amendment 30A to the FMP, the Council established a 21 percent commercial and 79 percent recreational allocation of the gray triggerfish ABC. These allocations were used to set the commercial and recreational sector-specific ACLs. The acceptable biological catch (ABC) recommended by the Council's Scientific and Statistical Committee (SSC), after their review of the 2011 update assessment, was 305,300 lb (138,482 kg), round weight. Based on the allocations established in Amendment 30A to the FMP, the final temporary rule set, on an interim basis, a reduced commercial ACL of 64,100 lb (29,075 kg), round weight, and a reduced recreational ACL of 241,200 lb (109,406 kg), round weight.

NMFS applied the Council's ACL/ACT control rule to the sector-specific ACLs to set the sector-specific ACTs as described in the final temporary rule. Therefore, on an interim basis, the final temporary rule set the commercial ACT (commercial quota) at 60,900 lb (27,624 kg), round weight, and the recreational ACT at 217,100 lb (98,475 kg), round weight.

To reduce the risk of overfishing, Amendment 30A to the FMP established gray triggerfish post-season AMs. The regulations at 50 CFR 622.49(a)(2)(ii), stated that if the recreational ACL of 457,000 lb (207,291 kg) was exceeded, NMFS would reduce the length of the following year's fishing season by the amount necessary to ensure that recreational landings did not exceed the recreational ACT during the following year. Recreational landings were to be evaluated relative to the ACL based on a 3-year running average of landings, as described in the FMP. The recreational ACL for 2010 and 2011 was 457,000 lb (207,291 kg). The recreational ACT for 2010 and 2011 was 405,000 lb (183,705 kg). The 2011 ACL was exceeded by 4,549 lb (2,063 kg). Recreational landings were compared to a 3-year running average (as described in the FMP) relative to the ACL, and for 2011, average landings for 2009–2011 were used. Despite the overage in 2011, average landings for 2009–2011 (384,910 lb (174,592 kg)) were below the 457,000 lb (207,291 kg) ACL, and AMs were not triggered.

Based on recent trends in recreational landings and anticipated future recreational effort, the Council and NMFS determined that there is a reasonable probability that the recreational sector will exceed its ACL in future years. Therefore, the final temporary rule established an in-season AM for the recreational sector to