

landings of CMP species by these vessels were entirely of CMP species harvested from the MPAs, the average adverse economic impact of the proposed rule would be \$2,948 annually per vessel for 77 CMP federally permitted vessels. However, that is highly unlikely. The MPAs are small and represent a relatively small percentage of the Gulf EEZ. Madison-Swanson is 115 nmi² (394 km²) and Steamboat Lumps is 104 nmi² (357 km²). Moreover, the MPAs are considered as relatively poor destinations for successful surface trolling. Therefore, NMFS expects any adverse economic impact of a year-round surface trolling prohibition on the 74 small commercial fishing businesses to be minimal.

Currently, possession of Gulf reef fish year-round or any other species of fish from November through April, including CMP species, is prohibited in the MPAs, except on a vessel in transit with fishing gear appropriately stowed. Under the proposed rule, the possession of any species of Gulf reef fish would be prohibited year-round in the MPAs, except for a vessel with a valid Federal commercial Gulf reef fish permit, which is required to have an operating satellite-based VMS, that is in transit with fishing gear stowed.

Under the proposed rule, the 411 small businesses that operate the 587 for-hire fishing vessels that have a for-hire reef fish permit, but do not have a Gulf commercial reef fish permit, would no longer be able to transit through the MPAs with reef fish onboard. It is unknown how many, if any, of the 587 for-hire vessels transit through the MPAs with reef fish onboard. However, because of the relatively small size of the MPAs and the distance between them, NMFS expects that any of those vessels could relatively easily avoid transiting through the MPAs if they have reef fish on board and any additional cost to transit around the MPAs would be minimal.

From the above, NMFS expects any impacts from the proposed rule on small businesses in the commercial fishing and for-hire fishing industries to be minimal. Therefore, NMFS concludes that this proposed rule would not have a significant economic impact on a substantial number of small entities. As a result, an initial regulatory flexibility analysis is not required and none has been prepared.

This proposed rule contains no information collection requirements under the Paperwork Reduction Act of 1995.

List of Subjects in 50 CFR Part 622

Fisheries, Fishing, Gulf of Mexico, Marine protected area, Reef fish.

Dated: February 22, 2021.

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 proposed to be 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. Amend § 622.34 by:

- a. Revising paragraph (a) introductory text and paragraphs (a)(2) and (3), and
- b. Removing paragraphs (a)(5) and (6).

The revisions read as follows:

§ 622.34 Seasonal and area closures designed to protect Gulf reef fish.

(a) *Closure provisions applicable to the Madison and Swanson sites, Steamboat Lumps, and the Edges.* For the purpose of this paragraph (a), fish means finfish, mollusks, crustaceans, and all other forms of marine animal and plant life other than marine mammals and birds. The provisions of this paragraph (a) do not apply to Atlantic highly migratory species, such as tunas, billfishes, and oceanic sharks. See 50 CFR part 635 for any provisions applicable to fishing for or possession of Atlantic highly migratory species in these areas.

* * * * *

(2) Within the Madison and Swanson sites and Steamboat Lumps: Fishing is prohibited year-round; possession of Gulf reef fish is prohibited year-round except when such possession is on a vessel that has been issued a valid Federal commercial permit for Gulf reef fish, has an operating satellite-based VMS unit, and is in transit with fishing gear stowed as specified in paragraph (a)(4) of this section; and possession of any non-Gulf reef fish species is prohibited year-round, except for such possession on a vessel in transit with fishing gear stowed as specified in paragraph (a)(4) of this section.

(3) Within the Edges during January through April each year, all fishing is prohibited and the possession of any fish species is prohibited, except for such possession on a vessel in transit with fishing gear appropriately stowed

as specified in paragraph (a)(4) of this section.

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[FR Doc. 2021-04178 Filed 3-1-21; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 210224-0029]

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: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations to implement Amendment 12 to the Fishery Management Plan (FMP) for the Dolphin and Wahoo Fishery off the Atlantic States (Dolphin Wahoo FMP), as prepared and submitted by the South Atlantic Fishery Management Council (Council). This proposed rule would add bullet mackerel and frigate mackerel to the Dolphin Wahoo FMP and designate them as ecosystem component (EC) species. The purpose of this proposed rule and 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 April 1, 2021.

ADDRESSES: You may submit comments on the proposed rule, 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 <https://www.regulations.gov> and enter “NOAA-NMFS-2020-0146,” in the Search box. Click the “Comment” 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 and a regulatory impact review, may be obtained from the Southeast Regional Office website 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 dolphin and wahoo fishery off the Atlantic states is managed under the FMP. The FMP was prepared by the Council and 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 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 non-exhaustive list of 10 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), and the Habitat Protection and Ecosystem-Based Management (Habitat) AP, and received extensive positive comments from the public during scoping of Amendment 12. The Dolphin Wahoo AP and Habitat AP members acknowledged that wahoo, in particular, 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)).

Management Measures Contained in This Proposed Rule

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

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.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with Amendment 12, the Dolphin and Wahoo FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

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

The Magnuson-Stevens Act provides the legal basis for this proposed rule. No duplicative, overlapping, or conflicting Federal rules have been identified. In

addition, no new reporting and record-keeping requirements are introduced by this proposed rule. Accordingly, the Paperwork Reduction Act does not apply to this proposed rule. A description of this proposed rule, why it is being considered, and the purposes of this proposed rule are contained in the preamble and in the **SUMMARY** section of this proposed rule. The objective of this proposed rule is to acknowledge the ecological role of bullet mackerel and frigate mackerel as forage fish in general and specifically as prey for wahoo.

The Chief Counsel for Regulation of the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule, if adopted, will not have a significant economic impact on a substantial number of small entities. A description of the factual basis for this determination follows.

This proposed rule, if implemented, would add bullet mackerel and frigate mackerel to the Dolphin and Wahoo FMP as EC species. Even though this proposed rule would alter the existing regulations to indicate that bullet mackerel and frigate mackerel are EC species in the Dolphin and Wahoo FMP, it would not implement any new

management measures, and, therefore, is administrative in nature. As such, this proposed rule would not directly regulate any small entities.

Because this proposed rule, if implemented, is not expected to directly regulate any small entities, it is not expected to affect a substantial number of small entities. Further, because no entities are expected to be affected by this proposed rule, the profits of small entities are also not expected to change, and thus no economic impacts on small entities are expected.

Because this proposed rule, if implemented, would not have a significant economic impact on a substantial number of small entities, an initial regulatory flexibility analysis is not required and none has been prepared.

List of Subjects in 50 CFR Part 622

Atlantic, Dolphin, Ecosystem species, Fisheries, Fishing, Wahoo.

Dated: February 24, 2021.

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 proposed to be 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. Add Table 6 to Appendix A to part 622 to read as follows:

* * * * *

Appendix A to Part 622—Species Tables

* * * * *

Table 6 of Appendix A to Part 622—Atlantic Dolphin and Wahoo

Dolphin, *Coryphaena equiselis* or *Coryphaena hippurus*

Wahoo, *Acanthocybium solandri*

The following species are designated as ecosystem component species:

Bullet mackerel, *Auxis rochei*

Frigate mackerel, *Auxis thazard*

[FR Doc. 2021-04265 Filed 3-1-21; 8:45 am]

BILLING CODE 3510-22-P