



# Amendment 34

## to the Fishery Management Plan for Coastal Migratory Pelagic Resources in the Gulf of Mexico and Atlantic Region

### **Atlantic Migratory Group King Mackerel Catch Levels and Atlantic King and Spanish Mackerel Management Measures**



Environmental Assessment | Regulatory Impact Review | Regulatory Flexibility Analysis

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# Abbreviations and Acronyms Used in the FMP

<b>ABC</b>	acceptable biological catch	<b>FMU</b>	fishery management unit
<b>ACL</b>	annual catch limits	<b>HAPC</b>	Habitat Area of Particular Concern
<b>AM</b>	accountability measures	<b>M</b>	natural mortality rate
<b>ACT</b>	annual catch target	<b>MARMAP</b>	Marine Resources Monitoring Assessment and Prediction Program
<b>B</b>	a measure of stock biomass in either weight or other appropriate unit	<b>MFMT</b>	maximum fishing mortality threshold
<b>B<sub>MSY</sub></b>	the stock biomass expected to exist under equilibrium conditions when fishing at $F_{MSY}$	<b>MMPA</b>	Marine Mammal Protection Act
<b>B<sub>OY</sub></b>	the stock biomass expected to exist under equilibrium conditions when fishing at $F_{OY}$	<b>MRFSS</b>	Marine Recreational Fisheries Statistics Survey
<b>B<sub>CURR</sub></b>	The current stock biomass	<b>MRIP</b>	Marine Recreational Information Program
<b>CLM</b>	Commercial Landings Monitoring System	<b>MSFCMA</b>	Magnuson-Stevens Fishery Conservation and Management Act
<b>CMP</b>	coastal migratory pelagics	<b>MSST</b>	minimum stock size threshold
<b>CPUE</b>	catch per unit effort	<b>MSY</b>	maximum sustainable yield
<b>EA</b>	environmental assessment	<b>NEPA</b>	National Environmental Policy Act
<b>EEZ</b>	exclusive economic zone	<b>NMFS</b>	National Marine Fisheries Service
<b>EFH</b>	essential fish habitat	<b>NOAA</b>	National Oceanic and Atmospheric Administration
<b>ESA</b>	Endangered Species Act	<b>NS</b>	National Standard
<b>F</b>	a measure of the instantaneous rate of fishing mortality	<b>OFL</b>	overfishing limit
<b>F<sub>30%SPR</sub></b>	fishing mortality that will produce a static SPR = 30%	<b>OY</b>	optimum yield
<b>F<sub>CURR</sub></b>	the current instantaneous rate of fishing mortality	<b>PSE</b>	percent standard error
<b>F<sub>MSY</sub></b>	the rate of fishing mortality expected to achieve MSY under equilibrium conditions and a corresponding biomass of $B_{MSY}$	<b>RIR</b>	regulatory impact review
<b>F<sub>OY</sub></b>	the rate of fishing mortality expected to achieve OY under equilibrium conditions and a corresponding biomass of $B_{OY}$	<b>SEDAR</b>	Southeast Data Assessment and Review
<b>FEIS</b>	final environmental impact statement	<b>SEFSC</b>	Southeast Fisheries Science Center
<b>FMP</b>	fishery management plan	<b>SERO</b>	Southeast Regional Office
		<b>SPR</b>	spawning potential ratio
		<b>SRD</b>	Science and Research Director
		<b>SSC</b>	Scientific and Statistical Committee

## **Amendment 34 to the Fishery Management Plan for Coastal Migratory Pelagic Resources in the Gulf of Mexico and Atlantic Region with Environmental Assessment and Regulatory Impact Review**

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<b>Proposed action:</b>	Update catch levels for Atlantic migratory group king mackerel and revise management measures for Atlantic migratory king mackerel and Atlantic migratory group Spanish mackerel.
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# Summary

The South Atlantic Fishery Management Council (South Atlantic Council) and the Gulf of Mexico Fishery Management Council (Gulf Council) are proposing Amendment 34 to the Fishery Management Plan for Coastal Migratory Pelagic Resources in the Gulf of Mexico and Atlantic Region (Amendment 34) to update the Atlantic migratory group king mackerel (Atlantic king mackerel) acceptable biological catch, annual catch limits, recreational annual catch targets, and sector allocations based on the SEDAR 38 Update assessment (2020). Additionally, the amendment proposes changes to management measures for Atlantic king mackerel and Atlantic migratory group Spanish mackerel (Atlantic Spanish mackerel).

The South Atlantic and Gulf Councils are taking action to address updated scientific information provided by an update to SEDAR 38 (SEDAR 38 Update 2020). The update was completed in April 2020, with data through the March 2017/February 2018 fishing year. The stock assessment indicated that Atlantic king mackerel was not overfished nor undergoing overfishing.

The SEDAR 38 Update (2020) includes revised recreational landings that are based on the Marine Recreational Information Program's newer Fishing Effort Survey method, which is considered more reliable and robust compared to the Coastal Household Telephone Survey method. As a result of the change in methodology, the South Atlantic and Gulf Councils have discussed current sector allocations, which were based on the historical (1979-1983) proportion of landings between the commercial and recreational sector, which were calculated by the Marine Recreational Fisheries Statistics Survey at the time.

The South Atlantic and Councils are also considering action to modify management measures for Atlantic king and Atlantic Spanish mackerel based on input from the South Atlantic Council's Mackerel Cobia Advisory Panel, including: increasing the recreational bag limit off the east coast of Florida to three fish per person to allow all fishermen the same opportunity to harvest Atlantic king mackerel and allowing recreational fishermen to keep cut/damaged Atlantic king mackerel and Atlantic Spanish mackerel that meet minimum size limits.

The actions in Amendment 34 are in accordance with the provisions set forth in the Magnuson-Stevens Fishery Conservation and Management Act. The intent of this amendment is to ensure Atlantic king mackerel catch limits are based on the best scientific information available and to increase social and economic benefits through sustainable and profitable harvest of Atlantic king mackerel and Atlantic Spanish mackerel. Amendment 34, with the integrated environmental assessment, has been made available for public review before and during each South Atlantic and Gulf Council meeting and will be made available for public comment during the proposed rule phase.

## **Atlantic King Mackerel and Atlantic Spanish Mackerel Management**

***Action 1. Revise the acceptable biological catch, total annual catch limit and annual optimum yield for Atlantic migratory group king mackerel.***

**Preferred Alternative 3.** Revise the acceptable biological catch, total annual catch limit and annual optimum yield for Atlantic migratory group king mackerel, based on the acceptable biological catch recommendation from the South Atlantic Fishery Management Council's Scientific and Statistical Committee. The total annual catch limit and annual optimum yield are equal to 95% of the **recommended** acceptable biological catch level. The recommended acceptable biological catch level is inclusive of recreational estimates from the Marine Recreational Information Program's Fishing Effort Survey.

***Action 2. Revise sector allocations and sector annual catch limits for Atlantic migratory group king mackerel.***

**Preferred Alternative 1 (No Action).** Retain the current recreational sector and commercial sector allocations of 62.9% and 37.1%, respectively, of the revised total annual catch limit for Atlantic migratory group king mackerel. Apply these percentages to the revised total annual catch limit.

***Action 3. Revise the recreational annual catch target for Atlantic migratory group king mackerel.***

**Preferred Alternative 1 (No Action).** Alternative 1 (No Action). Revise the recreational annual catch target to reflect the updated recreational annual catch limit level. The recreational annual catch target equals sector ACL[(1-PSE) or 0.5, whichever is greater].

***Action 4. Increase the recreational bag and possession limit for Atlantic migratory group king mackerel in the exclusive economic zone off the east coast of Florida.***

**Preferred Alternative 2.** Increase the daily bag limit for Atlantic migratory group king mackerel to three fish per person in the exclusive economic zone off the east coast of Florida.

***Action 5. Modify the recreational requirement for Atlantic migratory group king mackerel and Spanish mackerel to be landed with heads and fins in intact.***

**Preferred Alternative 2.** Cut-off (damaged) fish caught under the recreational bag limit, that comply with the minimum size limits, may be possessed, and offloaded ashore.

**Preferred Sub-alternative 2a.** Atlantic migratory group king mackerel

**Preferred Sub-alternative 2b.** Atlantic migratory group Spanish mackerel

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# Chapter 1. Introduction

## 1.1 What Action is Being Proposed?

Amendment 34 amends the Fishery Management Plan (FMP) for Coastal Migratory Pelagic (CMP) Resources in the Gulf of Mexico and Atlantic Region (CMP FMP). Amendment 34 to the CMP FMP (Amendment 34) includes actions to update the Atlantic migratory group king mackerel (Atlantic king mackerel) acceptable biological catch (ABC), annual catch limits (ACL), recreational annual catch targets (ACT), and sector allocations based on the Southeast Data, Assessment and Review (SEDAR) 38 Update assessment (SEDAR 38 Update 2020). Additionally, Amendment 34 to the CMP FMP proposes changes to management measures for Atlantic king mackerel and Atlantic migratory group Spanish mackerel (Atlantic Spanish mackerel).

## 1.2 Who is Proposing the Action?

The CMP fishery is managed jointly by the Gulf of Mexico (Gulf) Fishery Management Council (Gulf Council) and the South Atlantic Fishery Management Council (South Atlantic Council). Plan amendments to the CMP FMP must be approved by both the Gulf Council and the South Atlantic Council. Because this amendment applies only to Atlantic king mackerel and Atlantic Spanish mackerel, the South Atlantic Council is proposing the action. Both Councils approved the amendment, and it will be submitted to the

National Marine Fisheries Service (NMFS) for approval and implementation by the Secretary of Commerce. The NMFS is a line office in the National Oceanic and Atmospheric Administration.

### *Management Agencies*

***Gulf of Mexico and South Atlantic Fishery Management Councils*** – Engage in a process to determine a range of actions/alternatives and recommend action to the National Marine Fisheries Service.

***National Marine Fisheries Service and Council staffs*** – Develop alternatives based on guidance from the Council and analyze the environmental impacts of those alternatives.

***Secretary of Commerce*** – Will approve, disapprove, or partially approve the amendment as recommended by the Councils.

## 1.3 Why are the Councils Considering Action?

The South Atlantic and Gulf Councils are considering action to address updated scientific information provided by an update to SEDAR 38 Update (2020). The update was completed in April 2020, with data through the March 2017/February 2018 fishing year. Consistent with the original stock status determined by SEDAR 38 (2014), the stock assessment indicated that Atlantic king mackerel was not overfished or undergoing overfishing. Additionally, recreational and commercial landings, and catch per unit effort, all showed an increasing trend in biomass. Based on the results of the SEDAR 38 Update (2020), the South Atlantic Council's Scientific and Statistical Committee (SSC) updated the Atlantic king mackerel catch level recommendations (Table 1.3.1).

**Table 1.3.1.** South Atlantic SSC recommendations for overfishing limit (OFL) and acceptable biological catch (ABC) for Atlantic migratory group king mackerel, using data resultant from SEDAR 38 Update (2020).

<b>Year</b>	<b>OFL Recommendations (lbs)</b>	<b>ABC Recommendations (lbs)</b>
2022/2023	33,900,000	32,800,000
2023/2024	29,400,000	28,400,000
2024/2025	26,300,000	25,400,000
2025/2026	24,200,000	23,300,000
2026/2027+	22,800,000	21,800,000

The SEDAR 38 Update (2020) includes revised recreational landings that are based on the Marine Recreational Information Program’s (MRIP) newer Fishing Effort Survey (FES) method, which is considered more reliable and robust compared to the MRIP Coastal Household Telephone Survey (CHTS) method. As a result of the change in methodology, the South Atlantic Council is considering revising current sector allocations, which were based on the historical (1979-1983) proportion of landings between the commercial and recreational sector, which included recreational landing estimates from the Marine Recreational Fisheries Statistics Survey at the time.

The South Atlantic and Gulf Councils are also considering action to modify management measures for Atlantic king mackerel and Atlantic Spanish mackerel based on input from the South Atlantic Council’s Mackerel Cobia Advisory Panel (AP). The recreational bag limit off the east coast of Florida is two fish per person, while the rest of the Gulf, South Atlantic, and Mid-Atlantic regions have a bag limit of three fish per person. The AP requested that the Councils consider raising the bag limit in federal waters off the east coast of Florida to allow all fishermen the same opportunity to harvest Atlantic king mackerel. Finally, commercial fishermen are allowed to keep cut/damaged Atlantic king mackerel and Atlantic Spanish mackerel that meet minimum size limits. Given the issue with damaged Atlantic king mackerel and the increase in shark depredation, the AP has requested that the Councils consider a similar provision for the recreational sector.

### **1.3.1 Purpose and Need Statement**

The purpose of this amendment is to revise the catch limits for Atlantic migratory group king mackerel; to revise recreational and commercial allocations for Atlantic migratory group king mackerel; and to revise or establish management measures for Atlantic migratory group king and Spanish mackerel.

The need for this amendment is to ensure catch limits are based on the best scientific information available and to ensure overfishing does not occur in the Atlantic migratory group king and Spanish mackerel fisheries, while increasing social and economic benefits through sustainable and profitable harvest of Atlantic migratory group king and Spanish mackerel.

## **1.4 Which Species and Areas Would Be Affected by the Action?**

Initially, the CMP FMP (GMFMC and SAFMC 1982) treated king mackerel as one stock. The present management regime in the CMP FMP recognizes two migratory groups: the Gulf migratory group and the Atlantic migratory group. Each migratory group is primarily managed

by the respective Council. Gulf and Atlantic migratory groups of king mackerel are also divided into zones and/or subzones for management purposes. This amendment considers changes to management measures for Atlantic king mackerel and Spanish mackerel. For the purposes of this amendment, the Gulf migratory groups will be referred to as Gulf king mackerel and Gulf Spanish mackerel and the Atlantic migratory groups will be referred to as Atlantic king mackerel and Atlantic Spanish mackerel.

The two migratory groups were historically thought to mix seasonally off the east coast of Florida and in Monroe County, Florida. However, in 2014, a stock assessment was completed for Gulf and Atlantic king mackerel (SEDAR 38). Based on the research highlighted in the assessment, the assessment scientists determined that the mixing zone was substantially smaller than originally thought and is in the portion of the exclusive economic zone (EEZ) off Monroe County, Florida, south of the Florida Keys. In response to the assessment, through CMP FMP Amendment 26 (GMFMC and SAFMC, 2016), the South Atlantic and Gulf Councils established a year-round jurisdictional management boundary between the two Councils at the Dade/Monroe County, Florida, boundary, which puts the entire EEZ off the Florida Keys in the Gulf Council's jurisdiction as part of the Gulf King Mackerel Southern Zone. The jurisdictional management boundary between the two Councils for Spanish mackerel is also at the Dade/Monroe County, Florida, boundary.

## **1.5 How has recreational data collection changed in the southeast?**

The Marine Recreational Fisheries Statistics Survey (MRFSS) was created in 1979 by NMFS. The program included the Access Point Angler Intercept Survey (APAIS), which consists of onsite interviews at marinas and other points where recreational anglers fish, to determine catch. MRFSS also included CHTS, which used random digit dialing of homes in coastal counties to contact anglers to determine fishing effort. In 2000, the For-Hire Survey (FHS) was implemented to incorporate for-hire effort due to lack of coverage of charter boat anglers by the CHTS. The FHS used a directory of all known charter boats and a weekly telephone sample of the charter boat operators to obtain effort information.

MRIP<sup>1</sup> replaced MRFSS in 2013 to meet increasing demand for more precise, accurate, and timely recreational catch estimates. MRIP is a more scientifically sound methodology for estimating catch because it reduces some sources of potential bias as compared to MRFSS resulting in more accurate catch estimates. Specifically, CHTS was improved to better estimate private angling effort. Instead of random telephone calls, MRIP-CHTS used targeted calls to anglers registered with a federal or state saltwater fishing registry. The MRIP also incorporated a new survey design for APAIS in 2013. This new design addressed concerns regarding the validity of the survey approach, specifically that trips recorded during a given time period are representative of trips for a full day (Foster et al. 2018). The more complete temporal coverage with the new survey design provides for consistent increases or decreases in APAIS angler catch rate statistics, which are used in stock assessments and management, for at least some species (NMFS 2021).

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<sup>1</sup> <https://media.fisheries.noaa.gov/2021-09/MRIP-Survey-Design-and-Statistical-Methods-2021-09-15.pdf/>



MRIP also transitioned from the legacy CHTS to a new mail survey (FES) beginning in 2015, and in 2018, the FES replaced the CHTS. Both survey methods collect data needed to estimate marine recreational fishing effort (number of fishing trips) by shore and private/rental boat anglers on the Atlantic and Gulf coasts. The new mail-based FES uses angler license and registration information as one way to identify and contact anglers (supplemented with data from the U.S. Postal Service, which includes virtually all U.S. households). Because the FES and CHTS are so different, NMFS conducted side-by-side testing of the two methods from 2015 to 2018 and developed calibration procedures to convert the historical catch estimates (MRFSS, MRIP-CHTS, MRIP-AP AIS [collectively MRFSS]) into MRIP-FES. In general, landings estimates are higher using the MRIP-FES as compared to the MRFSS estimates. This is because the FES is designed to more accurately measure fishing activity than the CHTS, not because there was a sudden rise in fishing effort. NMFS developed a calibration model to adjust historic effort estimates so that they can be accurately compared to new estimates from the FES. The new effort estimates alone do not lead to definitive conclusions about stock size or status in the past or at current. NMFS determined that the MRIP-FES data, when fully calibrated to ensure comparability among years and across states, produced the best available data for use in stock assessments and management (NMFS 2021).

# Chapter 2. Proposed Actions and Alternatives

## 2.1 Action 1. Revise the acceptable biological catch, total annual catch limit and annual optimum yield for Atlantic migratory group king mackerel.

**Alternative 1 (No Action).** Retain the acceptable biological catch, total annual catch limit and annual optimum yield for Atlantic migratory group king mackerel as implemented in 2017 by Amendment 26 to the Fishery Management Plan for Coastal Migratory Pelagic Resources of the Gulf of Mexico and Atlantic Regions. The current catch levels are inclusive of recreational estimates from the Marine Recreational Information Program's Coastal Household Telephone Survey.

Fishing Year	Alternative 1 (No Action) (lbs)
2022/2023	12,700,000
2023/2024	12,700,000
2024/2025	12,700,000
2025/2026	12,700,000
2026/2027+	12,700,000

**Alternative 2.** Revise the acceptable biological catch, total annual catch limit and annual optimum yield for Atlantic migratory group king mackerel, based on the acceptable biological catch recommendation from the South Atlantic Fishery Management Council's Scientific and Statistical Committee. The total annual catch limit and annual optimum yield are equal to the **recommended** acceptable biological catch level. The recommended acceptable biological catch level is inclusive of recreational estimates from the Marine Recreational Information Program's Fishing Effort Survey.

Fishing Year	Alternative 2 (ACL=ABC) (lbs)
2022/2023	32,800,000
2023/2024	28,400,000
2024/2025	25,400,000
2025/2026	23,300,000
2026/2027+	21,800,000

**Preferred Alternative 3.** Revise the acceptable biological catch, total annual catch limit and annual optimum yield for Atlantic migratory group king mackerel, based on the acceptable biological catch recommendation from the South Atlantic Fishery Management Council's Scientific and Statistical Committee. The total annual catch limit and annual optimum yield are

equal to 95% of the **recommended** acceptable biological catch level. The recommended acceptable biological catch level is inclusive of recreational estimates from the Marine Recreational Information Program's Fishing Effort Survey.

Fishing Year	Alternative 3 (ACL=95%ABC) (lbs)
2022/2023	31,160,000
2023/2024	26,980,000
2024/2025	24,130,000
2025/2026	22,135,000
2026/2027+	20,710,000

**Alternative 4.** Revise the acceptable biological catch, total annual catch limit and annual optimum yield for Atlantic migratory group king mackerel, based on the acceptable biological catch recommendation from the South Atlantic Fishery Management Council's Scientific and Statistical Committee. The total annual catch limit and annual optimum yield are equal to 90% of the **recommended** acceptable biological catch level. The recommended acceptable biological catch level is inclusive of recreational estimates from the Marine Recreational Information Program's Fishing Effort Survey.

Fishing Year	Alternative 4 (ACL=90%ABC) (lbs)
2022/2023	29,520,000
2023/2024	25,560,000
2024/2025	22,860,000
2025/2026	20,970,000
2026/2027+	19,620,000

**Alternative 5.** Revise the acceptable biological catch, total annual catch limit and annual optimum yield of Atlantic migratory group king mackerel, based on the acceptable biological catch recommendation from the South Atlantic Fishery Management Council's Scientific and Statistical Committee. The total annual catch limit and annual optimum yield are equal to the constant catch level of 21,800,000 pounds. The recommended acceptable biological catch level is inclusive of recreational estimates from the Marine Recreational Information Program's Fishing Effort Survey.

Fishing Year	Alternative 5 (Constant Catch) (lbs)
2022/2023	21,800,000
2023/2024	21,800,000
2024/2025	21,800,000
2025/2026	21,800,000
2026/2027+	21,800,000

## **Discussion:**

The current acceptable biological catch (ABC) and stock (total) annual catch limit (ACL) for Atlantic migratory group king mackerel (Atlantic king mackerel) is 12,700,000 pounds (lbs) based on an overfishing limit (OFL) equal to 15,200,000 lbs ww. The current stock ACL is based on the South Atlantic Fishery Management Council's (South Atlantic Council) Scientific and Statistical Committee's (SSC) OFL and ABC recommendation and was implemented through Amendment 26 to the Fishery Management Plan (FMP) for Coastal Migratory Pelagic (CMP) Resources in the Gulf of Mexico and Atlantic Region (CMP FMP) (GMFMC and SAFMC, 2016). The current ABC recommendation was developed following SEDAR 38 (2014) and incorporates recreational landings for Atlantic king mackerel that were tracked using Marine Recreational Fishery Statistics Survey (MRFSS) estimation methods. The current and proposed OFLs, ABCs, and ACLs, based on SEDAR 38 (2014) and SEDAR 38 Update (2020), respectively, are not directly comparable because the updated assessment includes changes in the recreational catch estimates based on new MRIP-FES methodology.

### *Comparison of Alternatives*

The revised ACLs proposed in **Alternative 2**, **Preferred Alternative 3**, **Alternative 4** and **Alternative 5** are based on the SSC's new OFL and ABC recommendation that was developed following the SEDAR 38 Update (2020) (Tables 1.3.1 and 2.1.1). The new recommendation uses the Marine Recreational Information Program's (MRIP) Fishing Effort Survey (FES) methodology, is considered the best scientific information available (BSIA), and **Alternatives 2-5** are viable alternatives for further analysis (Table 2.1.1.). **Alternative 1 (No Action)** is not a viable alternative because it would retain the current total ACL for Atlantic king mackerel (equal to the current ABC), which is based on the 2014 SEDAR 38 assessment, which used MRFSS data and therefore would no longer be based on the BSIA.

**Table 2.1.1.** Atlantic king mackerel OFL and ABC recommendations (lbs) based on projections from SEDAR 38 Update (2020), and ACL options for Alternatives 2-4.

<b>Fishing Year</b>	<b>Overfishing Limit (OFL)</b>	<b>Alternative 2 (ACL=ABC)</b>	<b>Preferred Alternative 3 (ACL=95%ABC)</b>	<b>Alternative 4 (ACL=90%ABC)</b>	<b>Alternative 5 (Constant Catch)</b>
2022/23	33,900,000	32,800,000	<b>31,160,000</b>	29,520,000	21,800,000
2023/24	29,400,000	28,400,000	<b>26,980,000</b>	25,560,000	21,800,000
2024/25	26,300,000	25,400,000	<b>24,130,000</b>	22,860,000	21,800,000
2025/26	24,200,000	23,300,000	<b>22,135,000</b>	20,970,000	21,800,000
2026/27+	22,800,000	21,800,000	<b>20,710,000</b>	19,620,000	21,800,000

**NOTE:** Proposed ACLs are based on recreational data calibrated to the MRIP FES. Future recreational catches under these limits would be monitored by the FES.

The SEDAR 38 Update (2020) indicates that the Atlantic king mackerel ACL can be increased without having negative effects on the sustainability of the stock. **Preferred Alternative 3** and **Alternative 4** would have a greater long-term positive biological effect to the stock than **Alternative 2** because they would create a buffer between the ABC, annual optimum yield (OY) and total ACL, with **Alternative 4** setting the most conservative buffer with the total ACL at 90% of the ABC. **Alternative 5** would set the total ACL and annual OY equal to the updated

ABC level of 21,800,000 lbs, until modified, which is the lowest catch level among the recommended ABC values. **Alternative 5** is a constant catch value for 2022/2023 and subsequent fishing years or until changed by a future management action. Therefore, **Alternative 5** is the most conservative alternative under Action 1. Specifying a buffer between the ABC and ACL as proposed under **Preferred Alternative 3, Alternative 4, and Alternative 5**, would provide greater assurance that overfishing is prevented, and the long-term average biomass is near or above the spawning stock biomass at the maximum sustainable yield ( $SSB_{MSY}$ ).

The biological benefits to the stock would be expected to be greatest with **Alternative 5**, followed by **Alternative 4, Preferred Alternative 3, and Alternative 2**. Since **Alternative 1 (No Action)** is not based on the recent update to the Atlantic king mackerel stock assessment (SEDAR 38 Update, 2020), it would no longer represent BSIA and, therefore, is not a viable alternative.

In general, ACLs that allow for more fish to be landed can result in increased positive economic and social effects if harvest increases without notable effects on the stock of a species. The ACL does not directly impact the fishery for a species unless harvest changes, fishing behavior changes, or the ACL is exceeded, thereby potentially triggering accountability measures (AMs) such as harvest closures or other restrictive measures. The revised total ACLs for Atlantic king mackerel in **Alternative 2** through **Alternative 5** are all higher than the observed landings in recent years (Tables 3.2.1 and 3.2.2). As a result, no direct economic effects are anticipated from **Alternative 2** through **Alternative 5** in the short-term. A larger gap between the ACL and observed landings would allow for higher potential landings and reduce the likelihood of restrictive AMs being triggered that would lead to short-term negative economic effects. Thus, under this notion, from a short-term economic perspective, **Alternative 2** would have the highest potential net economic benefits, followed by **Preferred Alternative 3, Alternative 4, Alternative 5** and **Alternative 1 (No Action)**. Higher ACLs may provide opportunity for commercial and recreational fishermen to expand their harvest providing social benefits associated with increased income to fishing businesses within the community and higher trip satisfaction. Among the action alternatives, **Alternative 2** would be the most beneficial for fishermen, followed by **Preferred Alternative 3, Alternative 4** and **Alternative 5**.

## **2.2 Action 2. Revise sector allocations and sector annual catch limits for Atlantic migratory group king mackerel.**

**Note:** The revised total annual catch limit in Alternatives 1 (No Action) through 5 reflect **Preferred Alternative 3** in **Action 1**. The revised total annual catch limit includes recreational landings from the Marine Recreational Information Program using the Fishing Effort Survey method where appropriate, as well as updates to commercial and for-hire landings used in the latest assessment (SEDAR 38 Update 2020).

**Preferred Alternative 1 (No Action).** Retain the current recreational sector and commercial sector allocations of 62.9% and 37.1%, respectively, of the revised total annual catch limit for Atlantic migratory group king mackerel.

**Alternative 2.** Allocate 77.3% of the revised total annual catch limit for Atlantic migratory group king mackerel to the recreational sector and 22.7% of the revised total annual catch limit for Atlantic migratory group king mackerel to the commercial sector. This allocation is based on approximately maintaining the current commercial annual catch limit beginning in the 2026/2027 fishing season and allocating the remaining revised total annual catch limit that is inclusive of Marine Recreational Information Program Fishery Effort Survey estimates to the recreational sector.

**Alternative 3.** Allocate 68.9% of the revised total annual catch limit for Atlantic migratory group king mackerel to the recreational sector and 31.1% of the revised total annual catch limit for Atlantic migratory group king mackerel to the commercial sector. This allocation is based on average landings for Atlantic king mackerel for the years 2014 – 2019, inclusive of Marine Recreational Information Program Fishery Effort Survey estimates.

### **Discussion:**

The SEDAR 38 Update (2020) included revised recreational landings that are based on the MRIP's newer FES method, which is considered more reliable and robust compared to the Coastal Household Telephone Survey method. As a result of the change in methodology, the South Atlantic Council is considering revising the current allocation between the commercial and recreational sectors.

Sector allocations for Atlantic king mackerel were set in Amendment 1 to the CMP FMP (SAFMC 1985) using the average proportion of landings for the longest time series where both commercial and recreational landings data were available. This resulted in the current allocations of 62.9% to the recreational sector and 37.1% to the commercial sector. Allocations for Atlantic king mackerel have been discussed since that time, but ultimately have not been revised.

In addition to sector allocations, the commercial sector has regional allocations. The South Atlantic Council has not chosen to modify those allocations at this time based on recommendations from the Mackerel Cobia Advisory Panel (AP). The Northern Zone (New York/Connecticut/Rhode Island line to the North Carolina/South Carolina line) is allocated

23.04% of the commercial ACL and the Southern Zone (North Carolina/South Carolina line to the Miami-Dade/Monroe County line, Florida) is allocated 76.96% of the commercial ACL. Incidental commercial harvest of Atlantic king mackerel by purse seines is limited to 0.40 million pounds per fishing year. Additionally, the commercial fishing year for Atlantic king mackerel is March through February, and the commercial quota is divided between two seasons. Season 1 is March 1 through September 30, and Season 2 is October 1 through the end of February. Sixty percent of the Atlantic king mackerel quota for the Southern Zone is allocated to Season 1 and 40 percent is allocated to Season 2. The South Atlantic Council chose not to revise the commercial area allocations or the Southern Zone seasonal allocations based on feedback from the Mackerel Cobia AP that current allocations were functioning well.

### *Comparison of Alternatives*

The current sector allocation for Atlantic king mackerel (37.1% recreational/62.9% commercial) was specified by Amendment 1 to the CMP FMP (SAFMC 1985). The current total ACL for Atlantic king mackerel is 12,700,000 lbs, with 8,000,000 lbs allocated to the recreational sector and 4,700,000 lbs allocated to the commercial sector. Tables 2.2.1.2 through 2.2.1.4 show the sector allocations resulting from applying the percentages in **Preferred Alternative 1 (No Action)**, **Alternative 2**, and **Alternative 3** (Table 2.2.1.1) based on the revised total ACLs in **Action 1**, (Table 2.2.1.1). The revised total ACL incorporates recreational data as per the newer MRIP FES method, and updates to commercial and headboat landings.

**Table 2.2.1.1.** Current and proposed Atlantic king mackerel sector allocations for Alternatives 1-3.

<b>Action 2 (Allocations)</b>	<b>Commercial Allocation</b>	<b>Recreational Allocation</b>	<b>Basis</b>
<b>Preferred Alternative 1 (No Action)</b>	<b>37.1%</b>	<b>62.9%</b>	<b>See Council rationale in Section 5.2</b>
Alternative 2 <sup>1</sup>	22.7%	77.3%	Maintains current commercial ACL beginning in 2026/2027 season and allocates the remainder to the recreational sector
Alternative 3	31.1%	68.9%	Average landings 2014-2019

<sup>1</sup>The percentages for Alternative 3 reflect Preferred Alternative 3 in Action 1 in Amendment 34 to the CMP FMP and Atlantic Region. The revised total ACL incorporate recreational data as per MRIP using the FES method, as well as updates to commercial and for-hire landings.

Prior to the implementation of Amendment 26 to the CMP FMP (Amendment 26) in May 2017, the management boundary between the Gulf of Mexico (Gulf) and Atlantic migratory groups of king mackerel shifted between the summer (April 1 – October 31) and winter (November 1 – March 31) seasons. During the winter season, the east coast of Florida from the Volusia/Flagler County boundary to the Miami-Dade/Monroe County boundary (known as the east coast subzone) was considered part of Gulf migratory group king mackerel. Amendment 26 also established a single year-round boundary for separating the Gulf and Atlantic migratory groups of king mackerel at the Miami-Dade/Monroe County, Florida, boundary. There have been no closures for the recreational or commercial sectors of Atlantic migratory group king mackerel since prior to the year 2000. However, when the east coast of Florida (east coast subzone) was

considered part of the Gulf migratory group king mackerel, it did experience early closures during the 2007/2008, 2008/2009, 2009/2010, 2010/2011, and 2011/2012 seasons.

**Table 2.2.1.2.** Current and revised sector allocations (lbs) for Atlantic king mackerel based on the revised total ACL from Preferred Alternative 3 in Action 1.

Fishing Year	Total ACL	Preferred Alternative 1 (No Action)		Alternative 2		Alternative 3	
		Commercial (37.1%)	Recreational (62.9%)	Commercial (22.7%)	Recreational (77.3%)	Commercial (31.1%)	Recreational (68.9%)
2022/23	31,160,000	11,560,360	19,599,640	7,073,320	24,086,680	9,690,760	21,469,240
2023/24	26,980,000	10,009,580	16,970,420	6,124,460	20,855,540	8,390,780	18,589,220
2024/25	24,130,000	8,952,230	15,177,770	5,477,510	18,652,490	7,504,430	16,625,570
2025/26	22,135,000	8,212,085	13,922,915	5,024,645	17,110,355	6,883,985	15,251,015
2026/27+	20,710,000	7,683,410	13,026,590	4,701,170	16,008,830	6,440,810	14,269,190

**Note:** The revised ACLs in Alternatives 1 (No Action) through 3 reflect Preferred Alternative 3 in Action 1 in Amendment 34 to the CMP FMP and Atlantic Region. The revised total ACL incorporate recreational data as per MRIP using the Fishery Effort Survey method, as well as updates to commercial and for-hire landings.

**Table 2.2.1.3.** Current and revised commercial northern and southern zone allocations (lbs) for Atlantic king mackerel based on the revised total ACL from Preferred Alternative 3 in Action 1.

Fishing Year	Preferred Alternative 1 (No Action)		Alternative 2		Alternative 3	
	Northern Zone (23.04%)	Southern Zone (76.96%)	Northern Zone (23.04%)	Southern Zone (76.96%)	Northern Zone (23.04%)	Southern Zone (76.96%)
2022/23	2,663,507	8,896,853	1,629,693	5,443,627	2,232,751	7,458,009
2023/24	2,306,207	7,703,373	1,411,076	4,713,384	1,933,236	6,457,544
2024/25	2,062,594	6,889,636	1,262,018	4,215,492	1,729,021	5,775,409
2025/26	1,892,064	6,320,021	1,157,678	3,866,967	1,586,070	5,297,915
2026/27+	1,770,258	5,913,152	1,083,150	3,618,020	1,483,963	4,956,847

**Note:** The revised ACLs in Alternatives 1 (No Action) through 3 reflect Preferred Alternative 3 in Action 1 in Amendment 34 to the CMP FMP and Atlantic Region. The revised total ACL incorporate recreational data as per MRIP using the Fishery Effort Survey method, as well as updates to commercial and for-hire landings.

**Table 2.2.1.4.** Current and revised commercial southern zone seasonal allocations (lbs) for Atlantic king mackerel based on the revised total ACL from Preferred Alternative 3 in Action 1.

Fishing Year	Preferred Alternative 1 (No Action)		Alternative 2		Alternative 3	
	SZ Season 1 (60%)	SZ Season 2 (40%)	SZ Season 1 (60%)	SZ Season 2 (40%)	SZ Season 1 (60%)	SZ Season 2 (40%)
2022/23	5,338,112	3,558,741	3,266,176	2,177,451	4,474,805	2,983,204
2023/24	4,622,024	3,081,349	2,828,031	1,885,354	3,874,527	2,583,018
2024/25	4,133,782	2,755,854	2,529,295	1,686,197	3,465,246	2,310,164
2025/26	3,792,012	2,528,008	2,320,180	1,546,787	3,178,749	2,119,166
2026/27+	3,547,891	2,365,261	2,170,812	1,447,208	2,974,108	1,982,739

**Note:** The revised ACLs in Alternatives 1 (No Action) through 3 reflect Preferred Alternative 3 in Action 1 in Amendment 34 to the CMP FMP and Atlantic Region. The revised total ACL incorporate recreational data as per MRIP using the Fishery Effort Survey method, as well as updates to commercial and for-hire landings.



Based on the new MRIP FES recreational landings, none of the proposed recreational ACLs are expected to be reached. Similarly, based on commercial landings for the past five fishing years (2015/2016 through 2019/2020), none of the proposed commercial ACLs under **Alternative 2** or **Alternative 3** are expected to be reached. Biological effects to the stock are not expected to vary between **Preferred Alternative 1 (No Action)**, **Alternative 2**, and **Alternative 3**, since they do not change the total ACL specified in **Action 1**. Furthermore, the commercial sector for Atlantic king mackerel has effective in-season AMs in place to prevent the ACL from being exceeded. The recreational sector does not have in-season AMs in place but does have post-season AMs to address overages of the recreational and total ACLs.

In general, ACLs that allow for more fish to be landed can result in increased positive economic and social effects if harvest increases without notable long-term effects on the health of a stock. ACLs set above observed average harvest levels do create a gap between the ACL and typical landings that may be utilized in years of exceptional abundance or accessibility of a species, thus providing the opportunity for increased landings and a reduced likelihood of triggering restrictive AMs.

**Preferred Alternative 1 (No Action)** would maintain the current 37.1% of the total ACL allocation to the commercial sector. **Alternatives 2** and **3** would result in comparatively lower commercial allocations and ACLs. Although none of the commercial ACLs in **Action 2** are estimated to be constraining based on the average annual landings over the last five fishing years (2015/16-2019/20) of available data, it is assumed that the commercial sector could fully harvest the sector ACL, if conditions allowed, and there would be fewer potential landings of Atlantic king mackerel under **Alternative 2** and **Alternative 3** relative to **Preferred Alternative 1 (No Action)**. Alternatively, **Alternatives 2** and **3** would result in comparatively higher recreational allocations and ACLs. Although none of the recreational ACLs in **Action 2** are estimated to be constraining based on the average annual landings over the last five fishing years (2015/16-2019/20) of available data, it is assumed that the recreational sector could fully harvest the sector ACL, if conditions allowed, and there would be more potential landings of Atlantic king mackerel under **Alternative 2** and **Alternative 3** relative to **Preferred Alternative 1 (No Action)**.

**Preferred Alternative 1 (No Action)** may have few social effects as both sectors would see an increase in available poundage. With **Alternative 2** and **Alternative 3** there would be a decrease in the commercial percentage compared to **Preferred Alternative 1 (No Action)**, which could have some negative social effects if commercial fishermen have a negative perception of this change due to the decrease in fishing opportunity and concerns about long-term social effects, especially if other actions further decreased harvest opportunities. This may be especially true given in recent years the commercial sector has come close to meeting their quota while the recreational sector has stayed far below their quota. However, the increase in poundage for both sectors may result in positive social benefits associated with increased harvest.

## 2.3 Action 3. Revise the recreational annual catch target for Atlantic migratory group king mackerel.

**Note:** The revised recreational annual catch target in Alternatives 1 (No Action) through 4 reflect **Preferred Alternative 3** in **Action 1** and **Preferred Alternative 1 (No Action)** in **Action 2**. The revised annual catch limit includes recreational landings from the Marine Recreational Information Program using the Fishing Effort Survey method where appropriate, as well as updates to commercial and for-hire landings used in the latest assessment (SEDAR 38 Update 2020).

**Preferred Alternative 1 (No Action).** Revise the recreational annual catch target to reflect the updated recreational annual catch limit level. The recreational annual catch target equals sector  $ACL * [(1 - PSE) \text{ or } 0.5, \text{ whichever is greater}]$ .

**Alternative 2.** Revise the recreational annual catch target to reflect the updated recreational annual catch limit. The recreational annual catch target equals 90% sector ACL.

**Alternative 3.** Revise the recreational annual catch target to reflect the updated recreational annual catch limit. The recreational annual catch target equals 85% sector ACL.

### **Discussion:**

A recreational annual catch target (ACT) was first established in Amendment 18 to the CMP FMP using the equation recreational  $ACL * [(1 - \text{Percent Standard Error}) \text{ or } 0.5, \text{ whichever is greater}]$ . In Amendment 18 and other past amendments, the South Atlantic Council has chosen to use the five-year average percent standard error (PSE) (Table 2.3.1) because it better represents the precision of recent catch estimates than the three-year average. The PSE values have been updated to reflect the revised recreational landings that are based on the MRIP's newer FES method.

**Table 2.3.1.** The PSEs for Atlantic king mackerel from weight estimates for all recreational modes.

<b>Fishing Year</b>	<b>2015/2016</b>	<b>2016/2017</b>	<b>2017/2018</b>	<b>2018/2019</b>	<b>2019/2020</b>	<b>5-Year Average</b>
PSE Value	15.0	15.1	12.6	12.8	12.9	13.7

### *Comparison of Alternatives*

The current recreational ACT of 7,400,000 lbs is derived from the previous ABC and ACL (as established in Amendment 18 to the CMP FMP, 2012), which used MRFSS data and is based on the ACT equation where the recreational ACT is equal to the recreational  $ACL * (1 - \text{Percent Standard Error (PSE)})$  or recreational  $ACL * 0.5$ , whichever is greater (Table 4.3.1.1). Recreational ACTs for Atlantic king mackerel are codified and utilized in triggering the post-season recreational AM.

**Table 2.3.2.** Proposed recreational ACTs (lbs) for Atlantic migratory group king mackerel.

Fishing Year	Recreational ACL	Recreational ACT		
		Preferred Alternative 1 (No Action) <sup>1</sup>	Alternative 2	Alternative 3
2022/23	19,599,640	<b>16,914,489</b>	17,639,676	16,659,694
2023/24	16,970,420	<b>14,645,472</b>	15,273,378	14,424,857
2024/25	15,177,770	<b>13,098,416</b>	13,659,993	12,901,105
2025/26	13,922,915	<b>12,015,476</b>	12,530,624	11,834,478
2026/27+	13,026,590	<b>11,241,947</b>	11,723,931	11,072,602

<sup>1</sup>The five-year average PSE for the recreational data was 0.137. The resulting recreational ACT would be equal to the recreational ACL multiplied by (1-0.137), or 0.863, setting the recreational ACT at 86.3% of the recreational ACL.

Note: The revised total ACTs reflect **Preferred Alternative 3 in Action 1** and **Preferred Alternative 1 (No Action) in Action 2** in Amendment 34 to the CMP FMP and Atlantic Region.

Revising Atlantic king mackerel recreational ACTs as proposed in **Preferred Alternative 1 (No Action)**, **Alternative 2**, and **Alternative 3** would not be expected to result in negative biological impacts to the stock since overall catch would be constrained to the sector ACL, and AMs would prevent the ACL and OFL from being exceeded, correct for overages if they occur (if the stock is in an overfished condition), and prevent overfishing. Overall, the biological benefits to the stock would be expected to be greatest with **Alternative 3** since the ACT is the most conservative, followed by **Preferred Alternative 1 (No Action)**, and **Alternative 2**.

In the case of Atlantic king mackerel, the ACT is part of the recreational post-season AM. If recreational landings exceed the ACL, and the sum of the commercial and recreational landings exceed the total ACL, a reduced bag limit would be implemented the following year by the amount necessary to ensure the recreational landings may achieve the recreational ACT, but do not exceed the recreational ACL. However, harvest is not limited to the ACT, thus there are no direct economic effects but there may be indirect effects if a reduced bag limit that is geared towards achieving the ACT rather than the ACL results in additional decreased harvest of king mackerel. **Alternative 3** would have the greatest potential for short-term negative economic effects, followed by, **Preferred Alternative 1 (No Action)** and **Alternative 2**.

Reductions in harvest thresholds may have potential negative social effects, which can range from changes in fishing behavior to other social disruptions that go beyond impacts to the fishery and may extend to the community or region. However, there would be long-term social benefits for fishermen, communities, and the public by setting an ACT that would trigger accountability measures (AMs) for a stock that has potential to exceed the ACL. Those benefits would include more fishing opportunities and increased income, which should benefit the coastal economy and contribute to community resilience for those involved in these fisheries. **Alternative 3** would have the greatest potential for short-term negative social effects followed by, **Preferred Alternative 1 (No Action)**, and **Alternative 2**.

## **2.4 Action 4. Increase the recreational bag and possession limit for Atlantic migratory group king mackerel in the exclusive economic zone off the east coast of Florida.**

**Alternative 1 (No Action).** The daily bag limit for Atlantic migratory group king mackerel in the exclusive economic zone off Florida is two fish per person. The daily bag limit specified by Florida for its state waters is two fish per person.

**Preferred Alternative 2.** Increase the daily bag limit for Atlantic migratory group king mackerel to three fish per person in the exclusive economic zone off the east coast of Florida.

### **Discussion:**

The current recreational daily bag limit for Atlantic king mackerel is two fish per person in both federal and state waters off the east coast of Florida. The rest of the Gulf, South Atlantic, and Mid-Atlantic regions have a bag limit of three fish per person. Fishermen and Mackerel Cobia AP members have requested to raise the east coast of Florida bag limit in federal waters to three fish per person to match the rest of the management area. Increasing the bag limit in federal waters off the east coast of Florida as proposed under **Preferred Alternative 2** would allow fishermen throughout the management jurisdiction the opportunity to harvest the same amount of Atlantic king mackerel. **Preferred Alternative 2** would also remove language that incorporates by reference the bag limit specified in the Florida Administrative Code, provided such limit does not exceed 5-fish per person.

### *Comparison of Alternatives*

Negative biological effects to the stock could occur if more fish are allowed to be retained than the population can sustain; however, increasing the Atlantic king mackerel bag limit from two to three fish per person under **Preferred Alternative 2** is expected to have minor effects on overall harvest since the majority of anglers are currently only retaining one fish per person.

Generally, angler satisfaction, which can be measured in consumer surplus (CS), increases with the number of fish that can be harvested. As such, an increase in the bag limit would lead to higher angler satisfaction from a recreational trip, likely resulting in higher overall economic benefits. Hence, **Preferred Alternative 2** would be expected to result in higher economic benefits than **Alternative 1 (No Action)**.

The social effects of modifying the recreational harvest limits would be associated with the biological costs of each alternative, as well as the effects on current recreational fishing opportunities. In general, benefits to the recreational sector would result from harvest limits that do not result in restricted access to Atlantic king mackerel (i.e., because an AM is triggered) but still maintain harvest limits large enough to have minimal effect on recreational trip satisfaction. Additionally, increasing the recreational bag limit under **Preferred Alternative 2** would create consistency in recreational bag limit in federal waters throughout the Atlantic king mackerel management range when compared to **Alternative 1 (No Action)**. Alternatively, it would create

inconsistency between the bag limit in the Florida east coast state waters and the federal waters off the east coast of Florida.

## **2.5 Action 5. Modify the recreational requirement for Atlantic migratory group king mackerel and Spanish mackerel to be landed with heads and fins intact.**

**Alternative 1 (No Action).** Cut-off (damaged) Atlantic migratory group king mackerel or Atlantic migratory group Spanish mackerel caught under the recreational bag limit may not be possessed.

**Preferred Alternative 2.** Cut-off (damaged) fish caught under the recreational bag limit that comply with the minimum size limits, may be possessed, and offloaded ashore.

**Preferred Sub-alternative 2a.** Atlantic migratory group king mackerel

**Preferred Sub-alternative 2b.** Atlantic migratory group Spanish mackerel

*For the purposes of Action 5, damaged fish, refers to king or Spanish mackerel that are damaged only through natural predation*

### **Discussion:**

Commercial and recreational fishermen have reported increasing interactions with sharks or barracudas resulting in Atlantic king mackerel and Atlantic Spanish mackerel having their tails bitten off before they can be landed. Currently, commercial fishermen are allowed to possess cut or damaged fish, generally caused by shark depredation, that meet minimum size limits; however, the recreational sector may not. Additionally, commercial fishermen may possess five additional cut-off (damaged) Atlantic king mackerel, not subject to the size limits or trip limits. Those fish may be offloaded ashore but may not be sold or purchased and are not counted against the trip limit. This action does not consider the same provision for the recreational sector.

### *Comparison of Alternatives*

Under **Preferred Alternative 2** and its sub-alternatives, cut or damaged Atlantic king mackerel and Atlantic Spanish mackerel caught under the recreational bag limit that comply with the minimum size limits, may be possessed, and offloaded ashore. Allowing possession of damaged Atlantic king mackerel or Atlantic Spanish mackerel under **Preferred Sub-alternatives 2a** and **2b**, respectively, could be expected to minimally increase recreational harvest, while reducing the number of discarded fish. However, since cut or damaged fish are unlikely to survive, the biological effects to the stock would be neutral.

Allowing possession of damaged Atlantic king mackerel or Atlantic Spanish mackerel would increase harvest, which would provide positive direct economic effects for the recreational sector. Additionally, since fish in such a state do not survive release, there are no net effects for the stock. In general, an increase in overall harvest would incur economic benefits from such harvest. Under this notion, the highest economic benefits would occur under **Preferred Sub-alternative 2a** and **Sub-alternative 2b**, followed by **Alternative 1 (No Action)**.

Allowing possession of damaged Atlantic king mackerel or Spanish mackerel would increase harvest and allow cut-fish not to be wasted which would provide positive social effects for the recreational sector. The commercial sector is already allowed to possess damaged king and Spanish mackerel and consistency in regulations between both sectors would be expected to reduce confusion among fishermen and aid in compliance. Additionally, **Preferred Sub-alternative 2a** and **Preferred Sub-alternative 2b** directly address stakeholder concerns regarding damaged fish and may improve stakeholder perceptions of the management process.

# Chapter 3. Affected Environment

This section describes the affected environment in the proposed project area. The affected environment is divided into five major components:

- **Habitat environment** (Section 3.1)
- **Biological environment** (Section 3.2)
- **Economic environment** (Section 3.3)
- **Social environment** (Section 3.4)
- **Administrative environment** (Section 3.5)

## 3.1. Habitat Environment

The Fishery Management Plan (FMP) for Coastal Migratory Pelagic (CMP) Resources in the Gulf of Mexico and Atlantic Region (CMP FMP) is a joint FMP between the South Atlantic Fishery Management Council (South Atlantic Council) and the Gulf of Mexico Fishery Management Council. The action in this amendment only applies to the Atlantic migratory group king mackerel (Atlantic king mackerel) fishery. The South Atlantic Council has management jurisdiction of the federal waters (3-200 nm) offshore of North Carolina, South Carolina, Georgia, and East Florida. Management of CMP species extends through the Mid-Atlantic region, which is discussed below.

Information on the habitat utilized by species in the CMP fishery management unit and managed through the CMP FMP is included in Volume II of the Fishery Ecosystem Plan<sup>2</sup> (FEP; SAFMC 2009) which is incorporated here by reference. South Atlantic designated essential fish habitat (EFH) and EFH-Habitat Areas of Particular Concern (EFH-HAPC) are presented in the [South Atlantic Council User Guide](#) and spatial representations of EFH and other habitat related layers are in the South Atlantic Council's [SAFMC Atlas](#) and directly at the following link: <https://myfwc.maps.arcgis.com/apps/webappviewer/index.html?id=961f8908250a404ba99fac3aa37ac723>.

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<sup>2</sup> In transition to new Habitat and Ecosystem Page.



## ***South Atlantic Region***

The continental shelf from the Dry Tortugas, Florida, to Miami, Florida, is approximately 25 kilometers (km) wide and narrows to approximately 5 km off Palm Beach, Florida. The shelf then broadens to approximately 120 km off Georgia and South Carolina before narrowing to 30 km off Cape Hatteras, North Carolina. The Florida Current/Gulf Stream flows along the shelf edge throughout the region. In the southern region, this boundary current dominates the physics of the entire shelf (Lee et al. 1994). North of Cape Canaveral, Florida, to Cape Hatteras, North Carolina, additional physical processes are important, and the shelf environment can be subdivided into three oceanographic zones (Atkinson et al. 1985; Menzel 1993), the outer shelf, mid-shelf, and inner shelf. The outer shelf (40-75 m) is influenced primarily by the Gulf Stream and secondarily by winds and tides. On the mid-shelf (20-40 m), the water column is almost equally affected by the Gulf Stream, winds, and tides. Inner shelf waters (0-20 m) are influenced by freshwater runoff, winds, tides, and bottom friction. Water masses present from the Dry Tortugas, Florida, to Cape Canaveral, Florida, include Florida Current water, waters originating in Florida Bay, and shelf water. From Cape Canaveral, Florida, to Cape Hatteras, North Carolina, four water masses are found: Gulf Stream water; Carolina Capes water; Georgia water; and Virginia coastal water. Spatial and temporal variation in the position of the western boundary current has dramatic effects on water column habitats. Variation in the path of the Florida Current near the Dry Tortugas induces formation of the Tortugas Gyre (Lee et al. 1994). This cyclonic eddy has horizontal dimensions of approximately 100 km and may persist near the Florida Keys for several months. The Pourtales Gyre, which has been found to the east, is formed when the Tortugas Gyres moves eastward along the shelf. Upwelling occurs in the center of these gyres, thereby adding nutrients to the near surface. Wind and input of Florida Bay water also influence the water column structure on the shelf off the Florida Keys (Smith 1994; Wang et al. 1994).

Further, downstream, the Gulf Stream encounters the “Charleston Bump,” a topographic rise on the upper Blake Ridge where the current is often deflected offshore resulting in the formation of a cold, quasi-permanent cyclonic gyre and associated upwelling (Brooks and Bane 1978). On the continental shelf, offshore projecting shoals at Cape Fear, North Carolina, Cape Lookout, North Carolina, and Cape Hatteras, North Carolina, affect longshore coastal currents and interact with Gulf Stream intrusions to produce local upwelling (Blanton et al. 1981; Janowitz and Pietrafesa 1982). Shoreward of the Gulf Stream, seasonal horizontal temperature and salinity gradients define the mid-shelf and inner-shelf fronts. In coastal waters, river discharge and estuarine tidal plumes contribute to the water column structure.

The water column from Dry Tortugas, Florida, to Cape Hatteras, North Carolina, serves as habitat for many marine fish and shellfish. Most marine fish and shellfish release pelagic eggs when spawning, and thus most species utilize the water column during some portion of their early life history (Leis 1991; Yeung and McGowan 1991). Many fish inhabit the water column as adults. Pelagic fishes include numerous clupeoids, flying fish, jacks, cobia, bluefish, dolphin, barracuda, and the mackerels (Schwartz 1989). Some pelagic species are associated with particular benthic habitats, while other species are truly pelagic.

In the South Atlantic, areas of unique habitat exist such as the Oculina Bank and large expanses of deepwater coral; however, regulations are currently in place to protect these areas.

Additionally, there are several notable shipwrecks along the South Atlantic coast in state and federal waters including *Lofthus* (eastern Florida), *SS Copenhagen* (southeast Florida), *Half Moon* (southeast Florida), *Hebe* (Myrtle Beach, South Carolina), *Georgiana* (Charleston, South Carolina), *Monitor* (Cape Hatteras, North Carolina), *Huron* (Nags Head, North Carolina), and *Metropolis* (Corolla, North Carolina). The South Atlantic coastline is also home to numerous marshes and wetland ecosystems; however, these sensitive ecological environments do not extend into federal waters of the South Atlantic. The proposed action is not expected to alter fishing practices in any manner that would affect any of the above listed habitats or historic resources, nor would it alter any regulations intended to protect them.

### ***Mid-Atlantic Region***

Information about the physical environment of the Mid-Atlantic region was provided by the Mid-Atlantic Fishery Management Council (Mid-Atlantic Council) and adapted from the 2016 Mackerel, Squid, and Butterfish Specifications Environmental Assessment.

Climate, physiographic, and hydrographic differences separate the Atlantic Ocean from Maine to Florida into the New England-Middle Atlantic Area and the South Atlantic Area (division/mixing at Cape Hatteras, North Carolina). The inshore New England-Middle Atlantic area is fairly uniform physically and is influenced by many large coastal rivers and estuarine areas. The continental shelf (characterized by water less than 650 ft in depth) extends seaward approximately 120 miles off Cape Cod, narrows gradually to 70 miles off New Jersey, and is 20 miles wide at Cape Hatteras. Surface circulation is generally southwesterly on the continental shelf during all seasons of the year, although this may be interrupted by coastal indrafting and some reversal of flow at the northern and southern extremities of the area. Water temperatures range from less than 33°F from the New York Bight north in the winter to over 80°F off Cape Hatteras in summer.

Within the New England-Middle Atlantic Area, the Northeast U.S. Continental Shelf Large Marine Ecosystem includes the area from the Gulf of Maine to Cape Hatteras, extending from the coast seaward to the edge of the continental shelf, including the slope sea offshore to the Gulf Stream. The Northeast U.S. Continental Shelf Large Marine Ecosystem is a dynamic, highly productive, and intensively studied system providing a broad spectrum of ecosystem goods and services. This region, encompassing the continental shelf area between Cape Hatteras and the Gulf of Maine, spans approximately 250,000 km<sup>2</sup> and supports some of the highest revenue fisheries in the U.S. The system historically underwent profound changes due to very heavy exploitation by distant-water and domestic fishing fleets. Further, the region is experiencing changes in climate and physical forcing that have contributed to large-scale alteration in ecosystem structure and function. Projections indicate continued future climate change related to both -short- and medium-term cyclic trends as well as non-cyclic climate change.

A number of distinct subsystems comprise the region. The Gulf of Maine is an enclosed coastal sea, characterized by relatively cold waters and deep basins, with various sediment types. Georges Bank is a relatively shallow coastal plateau that slopes gently from north to south and has steep submarine canyons on its eastern and southeastern edge. It is characterized by highly productive, well-mixed waters and fast-moving currents. The Mid-Atlantic Bight is comprised of the sandy, relatively flat, gently sloping continental shelf from southern New England to Cape

Hatteras, North Carolina. Detailed information on the affected physical and biological environments inhabited by the managed resources is available in Stevenson et al. (2006).

### **3.1.1 Essential Fish Habitat**

South Atlantic Council EFH designation for CMP species applies to all waters from the EEZ to the landward most influence of the tide, from the Virginia/North Carolina border (although see below) to the Dry Tortugas in the Florida Keys. Within this area, the specific habitats and locations that are EFH are listed below.

#### ***EFH Designations in the Comprehensive Amendment for CMP Species (SAFMC 1998b)***

EFH for CMP species includes sandy shoals of capes and offshore bars, high profile rocky bottom and barrier island ocean-side waters, from the surf to the shelf break zone, but from the Gulf Stream shoreward, including *Sargassum*. Also included are all coastal inlets and all state-designated nursery habitats of particular importance to CMP species (for example, in North Carolina this would include all Primary Nursery Areas and all Secondary Nursery Areas).

In addition, the Gulf Stream is an essential fish habitat because it provides a mechanism to disperse coastal migratory pelagic larvae. For king and Spanish mackerel EFH occurs in the South Atlantic and Mid-Atlantic Bights.

### **3.1.2 Habitat Areas of Particular Concern**

Areas which meet the criteria for EFH-Habitat Areas of Particular Concern (EFH-HAPC) include sandy shoals of Capes Lookout, Cape Fear, and Cape Hatteras from shore to the ends of the respective shoals, but shoreward of the Gulf stream; The Point, The Ten-Fathom Ledge, and Big Rock (North Carolina); The Charleston Bump and Hurl Rocks (South Carolina); The Point off Jupiter Inlet (Florida); *Phragmatopoma* (worm reefs) reefs off the central east coast of Florida; nearshore hard bottom south of Cape Canaveral; The Hump off Islamorada, Florida; The Marathon Hump off Marathon, Florida; The “Wall” off of the Florida Keys; Pelagic *Sargassum*; and Atlantic coast estuaries with high numbers of Spanish mackerel based on abundance data from the Estuarine Living Marine Resources Program. Estuaries meeting these criteria for Spanish mackerel include Bogue Sound and New River, North Carolina; Bogue Sound, North Carolina (Adults May-September salinity >30 ppt); and New River, North Carolina (Adults May-October salinity >30 ppt).

## **3.2 Biological and Ecological Environment**

A detailed description of the CMP fishery was included in Amendment 18 to the CMP FMP (GMFMC and SAFMC 2011) and Amendment 26 to the CMP FMP (GMFMC and SAFMC 2016) and is incorporated here by reference.

- Amendment 18 can be found at <https://gulfcouncil.org/wp-content/uploads/Final-CMP-Amendment-18-092311-w-o-appendices-1.pdf>.
- Amendment 26 can be found at <https://safmc.net/amendments/cmp-amendment-26/>.

### 3.2.1 Description of the Fishery and Life History

The mackerel family, Scombridae, includes tunas, mackerels, and bonitos, and are among the most important commercial and sport fishes. The adults in the CMP management unit utilize the coastal waters of the Atlantic Ocean out to the edge of the continental shelf as their primary habitat. Within the area, the occurrence of CMP species is governed by temperature and salinity. All species are seldom found in water temperatures less than 20°C. Salinity preference varies, but these species generally prefer salinities less than 36 parts per thousand (ppt). The habitat for eggs and larvae of all species in the CMP management unit is the water column. Within the spawning area, eggs and larvae are concentrated in the surface waters.

The proposed action in this amendment specifically affects Atlantic king mackerel (*Scomberomorus cavalla*) and Atlantic Spanish mackerel (*Scomberomorus maculatus*).

#### ***King Mackerel***

King mackerel is a marine pelagic species that is found throughout the western Atlantic from the Gulf of Maine to Brazil, including the Gulf of Mexico (Gulf) and Caribbean Sea, and from the shore to 200 m (656 ft) depths. The habitat of adults is the coastal waters out to the edge of the continental shelf. Within the area, the occurrence of king mackerel is governed by temperature and salinity. They are seldom found in water temperatures less than 20°C; salinity preference varies, but they generally prefer salinities less than 36 ppt. Adults are migratory, and the CMP FMP recognizes two migratory groups (Gulf and Atlantic). Typically, adult king mackerel are found in the southern climates (south Florida and extreme south Texas/Mexico) in the winter and farther north in the summer; however, some king mackerel overwinter in deeper waters off the mouth of the Mississippi River, and off the coast of North Carolina. Food availability and water temperature are likely drivers of these migratory patterns. King mackerel have longevities of 24 to 26 years for females and 23 years for males (GMFMC and SAFMC 1985; MSAP 1996; Brooks and Ortiz 2004). Adults are known to spawn in areas of low turbidity, with salinity and temperatures of approximately 30 ppt and 27°C, respectively. There are major spawning areas off Louisiana and Texas in the Gulf (McEachran and Finucane 1979); and off the Carolinas, Cape Canaveral, and Miami in the western Atlantic (Wollam 1970; Schekter 1971; Mayo 1973). Spawning occurs generally from May through October with peak spawning in September (McEachran and Finucane 1979). Eggs are believed to be released and fertilized continuously during these months. Fifty percent of females are sexually mature between 450 to 499 mm (17.7 to 19.6 inches standard length (SL) in length and most are mature by the time they are 800 mm (35.4 inches SL, or by about age 4. Fifty percent of males are sexually mature at age 3, at a length of 718 mm SL (28.3 inches). Females in U.S. waters, between the sizes of 446-1,489 mm (17.6-58.6 inches) release 69,000-12,200,000 eggs. Larvae of king mackerel have been found in waters with temperatures between 26-31°C (79-88°F). This larval developmental stage has a short duration. King mackerel can grow up to 0.54-1.33 mm (0.02-0.05 inches) per day. This shortened larval stage decreases the vulnerability of the larvae and is related to the increased metabolism of this fast-swimming species. Juveniles are generally found closer to shore than adults and occasionally in estuaries.

## ***Spanish Mackerel***

Spanish mackerel are migratory and move into specific areas to spawn, and mature at age 1-2 years. They primarily eat other fish species (herring, sardines, and menhaden) and to a lesser extent crustaceans and squid at all life stages (larvae to adult). They are eaten primarily by larger pelagic predators like sharks, tuna, and bottlenose dolphin.

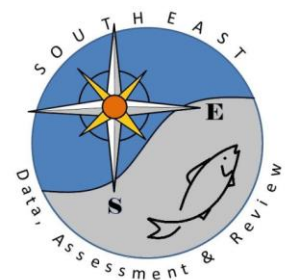
Spanish mackerel is also a pelagic species occurring in depths up to 75 meters (225 feet) but primarily found in depths of 20 meters (60 feet) or less. They occur in coastal zones of the western Atlantic from southern New England to the Florida Keys and throughout the Gulf of Mexico (Collette and Russo 1979). Adults usually are found from the low-tide line to the edge of the continental shelf, and along coastal areas. They inhabit estuarine areas (especially higher salinity areas) during seasonal migrations, but are considered rare and infrequent in many Gulf estuaries.

Spawning occurs along the inner continental shelf from April to September (Powell 1975). Eggs and larvae occur most frequently offshore over the inner continental shelf at temperatures between 20°C (68°F) and 32°C (89.6°F) and salinities between 28 and 37 ppt. They are found frequently in water depths from 9 meters (27 feet) to about 84 meters (252 feet), but are most common in < 50 meters (150 feet).

Juveniles are most often found in coastal and estuarine habitats and at temperatures greater than 25°C (77°F) and salinities greater than 10 ppt. Although they occur in waters of varying salinity, juveniles appear to prefer marine salinity levels and generally are not considered estuarine-dependent. Like king mackerel, adult Spanish mackerel are migratory, generally moving from wintering areas of south Florida and Mexico to more northern latitudes in spring and summer. Spanish mackerel generally mature at age 1 to 2 and have a maximum age of approximately 11 years (Powell 1975).

### **3.2.2 Stock Status of Atlantic King Mackerel**

The Southeast Data, Assessment, and Review (SEDAR) process is a cooperative Fishery Management Council initiative to improve the quality and reliability of fishery stock assessments in the South Atlantic, Gulf of Mexico, and U.S. Caribbean. SEDAR seeks improvements in the scientific quality of stock assessments, constituent and stakeholder participation in assessment development, transparency in the assessment process, and a rigorous and independent scientific review of completed stock assessments.



SEDAR is organized around three public workshops. First is the Data Workshop, during which fisheries monitoring and life history data are reviewed and compiled. Second is the Assessment Workshop, which may be conducted via a workshop and several webinars, during which assessment models are developed and population parameters are estimated using the information provided from the Data Workshop. Third and final is the Review Workshop, during which independent experts review the input data, assessment methods, and assessment products. The completed assessment, including the reports of all three workshops and all supporting

documentation, are then forwarded to the Council's Scientific and Statistical Committee (SSC). The SSC considers whether the assessment represents the best available science and develops fishing level recommendations for Council consideration.

Both the Gulf and Atlantic migratory groups of king mackerel were assessed in SEDAR 16 in 2008. The results of that assessment determined the Gulf king mackerel was not overfished and was uncertain whether the Gulf migratory group was experiencing overfishing. Subsequent analyses showed that  $F_{\text{current}}/F_{\text{MSY}}$  had been below 1.0 since 2002. Consequently, the most likely conclusion was that the Gulf king mackerel stock was not undergoing overfishing. Atlantic king mackerel was also determined not overfished however, it was uncertain whether overfishing was occurring, and thought to be a low level if it was occurring.

Both the stocks were assessed again in SEDAR 38 in 2014. The SEDAR 38 assessment determined the Gulf and Atlantic king mackerel stocks were not overfished and were not experiencing overfishing. Recruitment had been lower in recent years for the Atlantic stock, which could be due to physical and/or biological oceanographic variables (e.g., changes in water temperature, timing of upwelling events, changes in current patterns [eddies, gyres, current proximity to shore]), anthropogenic influences, or some combination thereof.

An update to SEDAR 38 was completed in April 2020, with data through the March 2017/February 2018 fishing year. Consistent with the original stock status determined by SEDAR 38 (2014), the stock assessment indicated that Atlantic king mackerel was not overfished nor undergoing overfishing. Additionally, recreational and commercial landings, and catch per unit effort, all showed an increasing trend in biomass. Based on the results of the SEDAR 38 Update (2020), the SSC updated the Atlantic king mackerel catch level recommendations for the South Atlantic Council (Table 1.3.1).

### **3.2.2.1 Biomass and Landings**

#### ***Stock biomass***

Total stock biomass for Atlantic king mackerel is described in Section 4.2.5 of SEDAR 38 (Update 2020). Stock biomass varied since 1998 with a steady increase up to 2010, followed by a cyclical pattern since 2010 which is associated with the estimated periods of high and low recruitment (See Section 4.2.5, [Table 4.5 and Figure 4.16 in SEDAR 38 \(2020\)](#)).

#### ***Commercial landings***

Commercial landings of Atlantic king mackerel have been mostly consistent since 2000 (Table 3.2.1). Landings from 2000/2001 to present have been monitored in the unit in which they were landed (either gutted or whole).

**Table 3.2.1.** Atlantic king mackerel commercial landings, ACL and percent of the ACL caught by year for the 2000-2001 through 2019-2020 fishing years.

Fishing Year	Fishing Year	Landings (lbs)	Commercial ACL	ACL %
April 1 through March 31	2000/2001	2,101,605	3,710,000	57%
	2001/2002	2,015,443	3,710,000	54%
	2002/2003	1,736,623	3,710,000	47%
	2003/2004	1,725,840	3,710,000	47%
	2004/2005	2,818,029	3,710,000	76%
March 1 through February 28	2005/2006	2,249,706	3,710,000	61%
	2006/2007	2,993,392	3,710,000	81%
	2007/2008	2,665,020	3,710,000	72%
	2008/2009	3,105,888	3,710,000	84%
	2009/2010	3,561,137	3,710,000	96%
	2010/2011	3,402,676	3,710,000	92%
	2011/2012	2,052,140	3,710,000	55%
	2012/2013	1,346,434	3,880,000	35%
	2013/2014	1,138,833	3,880,000	29%
	2014/2015	1,393,419	3,880,000	36%
	2015/2016	1,810,640	3,880,000	47%
	2016/2017	1,555,185	3,880,000	40%
	2017/2018	2,688,778	5,900,000	46%
	2018/2019	2,899,528	5,200,000	56%
	2019/2020	2,971,512	4,700,000	63%

Sources: Commercial landings from 2000 to 2013 are from ACL\_FILES\_100920.xlsm; and commercial landings from 2014 to 2020 are from WH\_ACLs\_2014-2020\_05APR2021workingcopy.xlsx.

### ***Recreational landings***

Recreational landings of Atlantic king mackerel have fluctuated over the time series ranging from 3 million to over 11 million pounds (Table 3.2.2). See Section 1.5 for more information on recreational data collection and the Marine Recreational Information Program (MRIP) Fishing Effort Survey (FES) (MRIP FES).

**Table 3.2.2.** Atlantic king mackerel recreational landings by fishing year from 2000 through 2020 in pounds whole weight (lbs ww).

<b>Fishing Year</b>	<b>Fishing Year</b>	<b>Landings (lb ww)</b>
April 1 through March 31	2000/2001	9,259,038
	2001/2002	6,665,905
	2002/2003	10,034,879
	2003/2004	8,113,088
	2004/2005	8,172,472
March 1 through February 28	2005/2006	5,493,679
	2006/2007	9,972,016
	2007/2008	11,323,009
	2008/2009	6,811,391
	2009/2010	8,534,919
	2010/2011	4,974,195
	2011/2012	3,619,123
	2012/2013	3,014,884
	2013/2014	2,982,792
	2014/2015	3,780,719
	2015/2016	3,141,846
	2016/2017	4,523,353
	2017/2018	5,168,647
	2018/2019	5,840,390
	2019/2020	7,053,331

Source: SEFSC MRIP FES Recreational ACL Database  
[MRIP\_FES\_rec81\_20wv6\_02Mar21w2014to2020LAcreel.xlsx]

### **3.2.3 Bycatch**

Release mortality rates for the Atlantic king mackerel fishery are widely variable depending on sector, species and fishing mode, ranging from 20-22% for the recreational sector and commercial handline, to 100% for the Atlantic king mackerel commercial gillnet fishery (Appendix G, Table G-5). For Atlantic Spanish mackerel, the release mortality rate for the commercial handline fishery is 10%. For the recreational sector, the release mortality rate is 20%. The implications of bycatch on the Atlantic king mackerel and Atlantic Spanish mackerel stocks and CMP fishery are discussed in further detail in Appendix G (Bycatch Practicability Analysis).



### 3.2.4 Protected Species

The National Marine Fisheries Service (NMFS) completed a biological opinion on June 18, 2015, evaluating the impacts of the CMP fishery on Endangered Species Act (ESA)-listed species. In the biological opinion (NMFS 2015), NMFS determined that the proposed continued authorization of the CMP fishery is not likely to adversely affect any ESA-listed whales, Gulf sturgeon, or corals. NMFS also determined that the CMP fishery is not likely to adversely affect designated critical habitat for elkhorn and staghorn coral or the Northwest Atlantic distinct population segments (DPS) of loggerhead sea turtle and will have no effect on designated critical habitat for the North Atlantic right whale. The 2015 opinion concluded that the CMP fishery's continued authorization is likely to adversely affect, but is not likely to jeopardize, green, hawksbill, Kemp's ridley, leatherback, or the Northwest Atlantic DPS of loggerhead sea turtles, as well as Atlantic sturgeon or smalltooth sawfish. An incidental take statement for sea turtles, smalltooth sawfish, and Atlantic sturgeon was issued. Reasonable and prudent measures to minimize the impact of these incidental takes were specified, along with terms and conditions to implement them.

On April 6, 2016, NMFS and the U.S. Fish and Wildlife Service published a final rule (81 FR 20057), effective May 6, 2016, listing 11 DPSs of green sea turtle. The final rule, which superseded the previous green sea turtle listing, listed eight DPS as threatened and three DPSs as endangered. On June 29, 2016, NMFS published a final rule (81 FR 42268) to list Nassau grouper as threatened under the ESA, effective July 29, 2016. Because the range of both the North Atlantic and South Atlantic DPSs of green sea turtle and the Nassau grouper occur within the action area of the CMP fishery, NMFS reinitiated consultation on the CMP fishery in March 2017. NMFS completed an Amendment to the 2015 Opinion on November 13, 2017. The amended biological opinion (NMFS 2017) concluded that the CMP fishery's continued authorization is not likely to adversely affect Nassau grouper and is likely to adversely affect, but is not likely to jeopardize, the North Atlantic and South Atlantic DPSs of green sea turtle. A revised incidental take statement was issued.

Since then, NMFS listed the giant manta ray (*Manta birostris*) as threatened under the ESA, effective February 21, 2018. On January 30, 2018, NMFS listed the oceanic whitetip shark (*Carcharinus longimanus*) as threatened under the ESA, effective March 1, 2018.

On June 11, 2018, NMFS requested reinitiation of ESA Section 7 consultation on the continued authorization of the CMP fishery under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) to address the listings of the giant manta ray and oceanic whitetip sharks. In this consultation request memorandum, NMFS developed ESA Section 7(a)(2) and Section 7(d) analyses that considered allowing the CMP fishery to continue during the reinitiation period. As a result of those analyses, NMFS determined that allowing the CMP fishery to continue during the reinitiation period is not likely to jeopardize any protected species, nor does it constitute an irreversible or irretrievable commitment of resources.

The alternatives considered in CMP Amendment 34 would not significantly modify the way in which the CMP fishery is prosecuted and, as such, are not anticipated to modify the operation of the CMP fishery in a manner that would cause effects to ESA-listed species or critical habitat not previously considered in the 2015 and 2017 biological opinions or in the June 11, 2018, analyses.

Only with the completion of a new biological opinion, however, can a Section 7(a)(2) analysis be completed for the long-term, foreseeable future.

The Gulf and South Atlantic CMP hook-and-line sector is classified in the 2022 MMPA List of Fisheries as a Category III fishery ([April 19, 2022; 87 FR 23122](#)), meaning the annual mortality and serious injury of a marine mammal resulting from the fishery is less than or equal to 1% of the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population. The Gulf and South Atlantic CMP gillnet sector is classified as Category II fishery in the 2022 MMPA List of Fisheries. This classification indicates an occasional incidental mortality or serious injury of a marine mammal stock resulting from the fishery (1-50% annually of the potential biological removal). The gillnet sector has no documented interaction with marine mammals; NMFS classifies this sector as Category II based on analogy (i.e., similar risk to marine mammals) with other gillnet fisheries.

### 3.3 Economic Environment

This action concerns commercial and recreational harvest of Atlantic king mackerel and recreational harvest of all CMP in the Atlantic region. Consequently, the following description of the economic environment is specific to the action.

#### 3.3.1 Commercial Sector

Almost all commercial landings of Atlantic king mackerel are from the South Atlantic. From 2015 through 2019, an average of 99.9% of commercial landings of king mackerel were from the South Atlantic and landed in a South Atlantic state (ACCSP data). Because commercial landings are so predominant in the South Atlantic, the following tends to focus on South Atlantic harvest.

Any commercial fishing vessel that harvests king mackerel in the Mid-Atlantic or South Atlantic exclusive economic zone (EEZ) must have a valid limited-access federal king mackerel permit onboard. From 2015 through 2019, an annual average of 1,446 vessels had a king mackerel permit<sup>3</sup> and an annual average of 681 (47.1%) of those vessels reported landing king mackerel from the South Atlantic (Table 3.3.1.1).

**Table 3.3.1.1.** Number of vessels with a federal king mackerel (KM) permit, number of KM permitted vessels that reported king mackerel landings from South Atlantic (SA), and percentage of KM federally permitted vessels that reported king mackerel landings in SA, 2015 – 2019.

Year	Number KM Permitted Vessels	Number KM Permitted Vessels with KM Landings in SA	Percent KM Permitted Vessels with KM Landings in SA
2015	1,460	694	47.5%
2016	1,451	688	47.4%
2017	1,445	678	46.9%
2018	1,440	657	45.6%
2019	1,435	690	48.1%
<b>Average</b>	<b>1,446</b>	<b>681</b>	<b>47.1%</b>

Source: SEFSC Socioeconomic Panel Data accessed by the SEFSC Online Economic Query System (April 1, 2021).

<sup>3</sup> The federal permit is also required to harvest king mackerel from the Gulf. Hence, this figure also includes permitted vessels that harvest Gulf king mackerel.

The above average 681 vessels reported landing an annual average of approximately 2.47 million lbs gw of king mackerel with a dockside value of \$5.69 million (2019 dollars) (Table 3.3.1.2). That \$5.69 million represented, on average, 28.63% of the 681 vessels' combined total annual revenue of \$19.9 million (2019 \$) from all of their annual landings (Table 3.3.1.3). The average vessel landed 3,633 lbs gw of king mackerel with a value of \$8,354 annually and had total annual revenue of \$29,214 (2019 \$) from all landings (Table 3.3.1.4).

**Table 3.3.1.2.** Reported landings (lbs gw) of king mackerel (KM) from South Atlantic, number of permitted vessels with those landings, and total dockside revenue from those km landings, 2015 – 2019.

Year	KM Landings (lbs gw)	Number Permitted Vessels with KM Landings	Total KM Revenue (2019 \$)
2015	2,033,905	694	\$4,767,538
2016	2,372,024	688	\$5,605,620
2017	2,769,453	678	\$6,101,657
2018	2,414,208	657	\$5,797,206
2019	2,780,434	690	\$6,161,445
<b>Average</b>	<b>2,474,005</b>	<b>681</b>	<b>\$5,686,693</b>

Source: SEFSC Socioeconomic Panel Data (January 2021) accessed by the SEFSC Online Economic Query System (April 1, 2021), and BEA (Bureau of Economic Analysis) for GDP (gross domestic product) deflator (March 25, 2021 release).

**Table 3.3.1.3.** Dockside revenue (2019 \$) from South Atlantic king mackerel, jointly caught species, all other species landed, and percentage of total revenue from km landings, 2015 – 2019.

Year	Revenue from KM Landings (2019 \$)	Revenue from Jointly Landed Species (2019 \$)	Revenue from All Other Landings (2019 \$)	Total Revenue (2019 \$)	Percentage Total Revenue from KM Landings
2015	\$4,767,538	\$1,864,361	\$13,191,336	\$19,823,236	24.05%
2016	\$5,605,620	\$2,257,036	\$12,548,757	\$20,411,414	27.46%
2017	\$6,101,657	\$2,723,047	\$12,294,140	\$21,118,844	28.89%
2018	\$5,797,206	\$2,896,456	\$10,594,427	\$19,288,089	30.06%
2019	\$6,161,445	\$2,569,136	\$10,129,816	\$18,860,397	32.67%
<b>Average</b>	<b>\$5,686,693</b>	<b>\$2,462,007</b>	<b>\$11,751,695</b>	<b>\$19,900,396</b>	<b>28.63%</b>

Source: SEFSC Socioeconomic Panel Data (January 2021) accessed by the SEFSC Online Economic Query System (April 1, 2021), and BEA for GDP deflator (March 25, 2021 release).

**Table 3.3.1.4.** Average annual landings (by weight and value) of South Atlantic king mackerel per permitted vessel and average annual revenue per permitted vessel from all landings, 2015 – 2019.

Year	Average KM Landings per Permitted Vessel (lbs gw)	Average KM Landings per Permitted Vessel (2019 \$)	Average Total Revenue per Permitted Vessel (2019 \$)
2015	2,931	\$6,870	\$28,564
2016	3,448	\$8,148	\$29,668
2017	4,085	\$8,999	\$31,149
2018	3,675	\$8,824	\$29,358
2019	4,030	\$8,930	\$27,334
<b>Average</b>	<b>3,633</b>	<b>\$8,354</b>	<b>\$29,214</b>

Source: SEFSC Socioeconomic Panel Data (January 2021) accessed by the SEFSC Online Economic Query System (April 1, 2021), and BEA for GDP deflator (March 25, 2021 release).

The commercial landings of Atlantic king mackerel generate beneficial economic impacts, such as jobs and income. The annual average \$5,686,693 (2019 dollars) of king mackerel sold by permitted vessels generates 706 jobs, approximately \$20.5 million in income and other beneficial impacts (Table 3.3.1.5).

**Table 3.3.1.5.** Average annual beneficial economic impacts from Atlantic king mackerel landings in South Atlantic, 2015 – 2019.

Revenue from King Mackerel Landings (2019 \$)	Jobs	Income (thousands 2019 \$)	Sales (thousands 2019 \$)	Total Value Added (thousands 2019 \$)
\$5,686,693	706	\$20,495	\$55,571	\$29,109

Source: SEFSC Socioeconomic Panel Data (January 2021) and BEA GDP deflator (March 25, 2021 release) for average annual revenue from landings and estimates of economic impacts calculated by NMFS SERO using model developed for NMFS (2017).

The average trip with reported landings of king mackerel had 222 lbs gw of the species with a dockside value of \$511 (2019 \$) from 2015 through 2019 (Table 3.3.1.6). With the addition of other jointly landed species, the average king mackerel trip yielded a total dockside revenue of \$732. The average dockside price of king mackerel per lb gw during those five years was \$2.30 (2019 \$).

**Table 3.3.1.6.** Average landings (by weight and value) of South Atlantic king mackerel per trip with king mackerel and average annual revenue per king mackerel trip, 2015 – 2019.

Year	Average KM Landings per KM Trip (lbs gw)	Average KM Landings per KM Trip (2019 \$)	Ave Revenue per KM Trip (2019 \$)
2015	205	\$480	\$667
2016	217	\$513	\$719
2017	229	\$504	\$729
2018	220	\$527	\$790
2019	238	\$528	\$748
<b>Average</b>	<b>222</b>	<b>\$511</b>	<b>\$732</b>

Source: SEFSC Socioeconomic Panel Data (January 2021) accessed by the SEFSC Online Economic Query System (April 1, 2021), and BEA for GDP deflator (March 25, 2021 release).

Most reported landings by both weight and value occur in Florida. From 2015 through 2019, on average, almost 83% of king mackerel harvested by permitted vessels were landed in Florida (Table 3.3.1.7). North Carolina and Florida, combined, accounted for almost 99% of reported landings of South Atlantic king mackerel by weight and value.

**Table 3.3.1.7.** Average annual percentage of South Atlantic king mackerel landings (by weight and value) by state where landed, 2015 – 2019.

Landings	FL	GA	NC	SC	Other
By Weight	82.56%	0.01%	16.26%	1.10%	0.08%
By Value	82.71%	0.01%	16.17%	1.04%	0.07%

Source: SEFSC Socioeconomic Panel Data (January 2021) accessed by the SEFSC Online Economic Query System (April 1, 2021).

Hook-and-line and gillnet gear is the most popular gear type to harvest South Atlantic king mackerel. From 2015 through 2019, hook-and-line gear (electric, hand, troll and buoy) accounted for 97.5% of the reported king mackerel landings by weight and value (Table 3.3.1.8). Gillnet gear accounted for another 2.4% by weight and value.

**Table 3.3.1.8.** Average annual percentage of South Atlantic king mackerel landings (by weight and value) by gear, 2015 – 2019.

Landings	Hook & Line	Gillnet	Other
By Weight	97.45%	2.38%	0.17
By Value	97.47%	2.36%	0.17

Source: SEFSC Socioeconomic Panel Data (January 2021) accessed by the SEFSC Online Economic Query System (April 2, 2021).

The Office of Management and Budget (OMB) Circular A-4 (2003) defines producer surplus as the difference between the amount a producer is paid for a unit of a good and the minimum amount the producer would accept to supply that unit. In other words, it is the difference between total revenue and total variable cost at the margin.

At the commercial fishing trip level, producer surplus is the difference between the total dockside (ex-vessel) revenue received from the sales of the landings from a trip and the total (direct) cost of making that trip; it does not include any fixed costs. Overstreet et al. (2019) offer up an estimate of producer surplus gained from a South Atlantic king mackerel trip: trip net cash flow. Trip net cash flow is total ex-vessel revenue received from all landings from a South Atlantic king mackerel trip minus the variable trip costs of fuel, bait, ice, groceries, crew, and miscellaneous costs of that trip. In a sense, it is a measure of the financial performance of a king mackerel trip. Using data from 2014 through 2016, Overstreet et al. estimate the average trip net cash flow of a trip that lands South Atlantic king mackerel is 58% of the total revenue from the trip. However, when differentiated by the gear used, average trip net cash flow is 52% of a trip's total revenue when vertical line (handlines, rod and reels, and electric (bandit) gear) is used and 65% when trolling gear is used.

Trip net cash flow does not include the cost of the trip to the owner/captain of the vessel in terms of his/her/their time making the trip. Overstreet et al. (2019) offer up an estimate of trip net revenue, which includes the trip variable costs as above, but also the opportunity cost of the

owner/captain's time making the trip. The average trip net revenue of a trip that lands South Atlantic king mackerel is 29% of the trip's total revenue, but when differentiated by gear, it is 25% of the trip's total revenue for trips that use vertical line, and 32% for trips that used trolling gear.

A South Atlantic king mackerel vessel's annual financial performance can be understood as the difference between its total revenue for the year less the sum of its fixed and variable costs for that year. Overstreet et al.'s annual net cash flow is such a measure. It is the difference between total annual revenue and the costs for fuel, other supplies, hired crew, vessel repair and maintenance, insurance, overhead, and loan payment. It is not a measure of economic performance, however, as it includes a transfer payment (loan payments) and excludes the opportunity cost of the owner/captain's time, opportunity cost of capital, and depreciation. Using data from 2014 through 2016, Overstreet et al. estimate the annual net cash flow (financial performance) of a vessel that lands South Atlantic king mackerel, regardless of gear, is 21% of its annual total revenue.

Overstreet et al.'s concept of net revenue for operations is more closely aligned with the concept of economic performance or economic profit. It excludes any transfer payments (loan payments here), and includes both the opportunity cost of the owner/captain's time and the vessel's depreciation. Overstreet et al. estimate, using data from 2014 through 2016, the average net revenue for operations for a vessel that lands South Atlantic king mackerel is 1.6% of its annual total revenue regardless of gear used. However, it is 3% of annual total revenue for the average vessel that lands South Atlantic king mackerel using vertical line and negative 2% for those that use trolling gear.

Any dealer that buys king mackerel or any CMP harvested from the Atlantic EEZ must have a federal dealer permit, which is an open-access permit. As of May 10, 2021, there were 383 entities with the permit. Additional information about the economics of commercial fishing for CMP and, particularly, king, and Spanish mackerel can be found in Overstreet et al. (2019).

### **3.3.2 Recreational Sector**

The recreational sector is composed anglers (recreational fishers) who fish either from shore, a private or leased vessel, or from a charter or headboat. A federal permit is not required for anglers aboard private or leased vessels to fish for or harvest CMP from the Atlantic EEZ. Instead, they are required to either possess a state recreational fishing license that authorizes saltwater fishing in general or be registered in the federal National Saltwater Angler Registry system, subject to appropriate exemptions. Consequently, it is not possible to identify with available data how many individual anglers fish for CMP in the Atlantic EEZ from private or leased vessels and would be affected by the proposed rule.

Any for-hire vessel that takes anglers to fish for or possess CMP from the South Atlantic is required to have a South Atlantic charter/headboat pelagics permit, which is an open-access permit. As of May 9, 2021, there were 1,715 vessels with a valid (non-expired) or renewable charter/headboat coastal migratory pelagics permit.

Recreational fishing effort derived from the MRIP FES database can be described in terms of target effort, which are characterized by the number of targeted trips and catch trips. Target effort is the number of individual angler trips, regardless of duration, where the angler indicated that the species or a species in a species group was targeted as either the first or second target for the trip. The species did not have to be caught. Estimates of annual Atlantic king mackerel, Spanish mackerel and cobia target effort (in terms of individual angler trips) for 2015 through 2019 are provided in Tables 3.3.2.1, 3.3.2.2, and 3.3.2.3. Note that Atlantic cobia does not include Florida because Atlantic cobia extends from waters north of Florida through New York.

**Table 3.3.2.1.** Number of trips that targeted king mackerel (primary or secondary target) by mode in all waters and percentage of those trips in Mid-Atlantic and South Atlantic EEZ, 2015 – 2019.

Year	Shore	Private	Charter	Percentage Private in EEZ	Percentage Charter in EEZ
2015	724,686	651,227	7,237	65.05%	90.82%
2016	426,155	604,808	18,927	59.43%	84.92%
2017	673,884	866,478	10,244	68.97%	88.68%
2018	826,629	826,629	46,768	63.00%	90.87%
2019	364,399	1,003,144	16,072	63.52%	74.39%
<b>Average</b>	<b>603,151</b>	<b>790,457</b>	<b>19,850</b>	<b>64.00%</b>	<b>85.93%</b>

Source: Personal communication from the NMFS, Fisheries Statistics Division May 11, 2021.

**Table 3.3.2.2.** Number of trips that targeted Spanish mackerel (primary or secondary target) by mode in all waters and percentage of those trips in Mid-Atlantic and South Atlantic EEZ, 2015 – 2019.

Year	Shore	Private	Charter	Percentage Private in EEZ	Percentage Charter in EEZ
2015	1,247,287	383,059	13,684	16.89%	22.22%
2016	1,322,558	473,357	21,754	5.84%	11.25%
2017	976,372	421,433	10,969	15.19%	31.25%
2018	1,465,094	420,802	28,383	15.21%	54.70%
2019	1,764,448	600,305	34,383	13.87%	27.55%
<b>Average</b>	<b>1,355,152</b>	<b>459,791</b>	<b>21,835</b>	<b>13.40%</b>	<b>29.39%</b>

Source: Personal communication from the NMFS, Fisheries Statistics Division May 11, 2021.

**Table 3.3.2.3.** Number of trips that targeted Atlantic cobia (primary or secondary target) by mode in all waters and percentage of those trips in Mid-Atlantic and South Atlantic EEZ, 2015 – 2019.

Year	Shore	Private	Charter	Percentage Private in EEZ	Percentage of Charter in EEZ
2015	233,029	375,007	6,929	26.23%	25.85%
2016	226,308	451,786	6,847	9.45%	26.32%
2017	235,785	317,986	6,726	2.44%	13.44%
2018	202,369	436,529	8,900	6.52%	7.94%
2019	239,716	400,806	7,417	13.74%	39.44%
<b>Average</b>	<b>227,441</b>	<b>396,423</b>	<b>7,364</b>	<b>11.68%</b>	<b>22.60%</b>

Source: Personal communication from the NMFS, Fisheries Statistics Division May 11, 2021.

The above angler trips generate beneficial economic impacts from the purchases of recreational fishing equipment, bait, private/leased vessels, for-hire fishing trips, and other trip-related expenses. Estimates of these beneficial impacts are summarized in Tables 3.3.2.4 through 3.3.2.6 for each of the Atlantic CMP stocks. The percentages of targeted trips in the EEZ by private/leased vessel and charter vessel are the same percentages of the economic impacts by those modes. For example, the average 64% of annual trips that targeted king mackerel in the EEZ will generate 64% of the economic impacts from the average annual trips that targeted king mackerel in all waters.

**Table 3.3.2.4.** Average annual economic impacts of angler trips that targeted Atlantic king mackerel (primary or secondary target) in all Mid-Atlantic and South Atlantic waters, 2015 – 2019.

Mode	Jobs	Income (2019 dollars)	Value-Added (2019 dollars)	Sales (2019 dollars)
Charter	52,131	\$2,785,427	\$4,317,722	\$8,058,507
Private/Rental	569,948	\$28,197,166	\$49,789,179	\$99,623,911
Shore	335,548	\$15,197,180	\$26,225,992	\$49,955,303

Source: Estimates of economic impacts calculated by NMFS SERO using model developed for NMFS (2017).

**Table 3.3.2.5.** Average annual economic impacts of angler trips that targeted Atlantic Spanish mackerel (primary or secondary target) in all Mid-Atlantic and South Atlantic waters, 2015 – 2019.

Mode	Jobs	Income (2019 dollars)	Value-Added (2019 dollars)	Sales (2019 dollars)
Charter	57,344	\$3,063,975	\$4,749,503	\$8,864,374
Private/Rental	331,526	\$16,401,658	\$28,961,247	\$57,948,991
Shore	753,906	\$34,144,849	\$19,992,486	\$112,238,998

Source: Estimates of economic impacts calculated by NMFS SERO using model developed for NMFS (2017).

**Table 3.3.2.6.** Average annual economic impacts of angler trips that targeted Atlantic cobia (primary or secondary target) in all Mid-Atlantic and South Atlantic waters, 2015 – 2019.

Mode	Jobs	Income (2019 dollars)	Value-Added (2009 dollars)	Sales (2009 dollars)
Charter	16,165	\$863,710	\$1,338,847	\$2,498,796
Private/Rental	130,405	\$6,451,561	\$11,391,852	\$22,794,126
Shore	71,804	\$3,252,040	\$5,612,091	\$10,689,919

Source: Estimates of economic impacts calculated by NMFS SERO using model developed for NMFS (2017).

Fish harvested by saltwater anglers for their own or family's consumption are not included in traditional economic (market) valuation of the recreational sector, although those fish harvested may have substantial personal and social values, especially to the individuals and families that rely on recreationally caught fish and shellfish to feed themselves and their families throughout the year and especially at times of economic hardship. There is relaxation, camaraderie of being with family and friends, being out in nature, the thrill of adventure, and other factors that cause one to value recreational fishing beyond the expenses. One method used to put a dollar value on those values is determining saltwater angler's willingness to pay in excess of expenses, and that extra amount (above expenses) is termed consumer surplus. Liese and Carter (2017) estimated anglers on private vessel trips were willing to pay \$11 per person for a 1-fish bag limit of king mackerel, \$12 for a 2-fish bag limit and \$13 for a 3-fish bag limit for king mackerel in 2009 dollars. When adjusted to 2019 dollars using the BEA GDP implicit price deflator, those



willingness to pay (WTP) figures are \$13 for the 1-fish limit, \$14 for the 2-fish limit, and \$15 for the 3-fish limit. Liese and Carter (2017) also estimated that for anglers on charter vessel trips an incremental WTP per person for the first, second, and third fish in the king mackerel bag limit of \$12, \$2, and \$2, respectively (adjusted to 2019 dollars).

Estimates of economic impacts associated with headboat (also called party boat) effort for CMP are not available. While appropriate impact coefficients are available for charter fishing, potential differences in certain factors, such as the for-hire fee, rates of tourist versus local participation, and expenditure patterns, may result in significant differences in the impacts of headboats (party boats) versus charter vessels.

Economic value for for-hire vessels can be measured by producer surplus (PS) per passenger trip (the amount of money that a vessel owner earns in excess of the cost of providing the trip). Estimates of the PS per for-hire passenger trip are not available. Instead, net operating revenue (NOR), which is the return used to pay all labor wages, returns to capital and owner profits, is used as a proxy for PS. For the South Atlantic region, estimated NOR values are \$175 (2019 dollars) per charter angler trip and \$48 (2019 dollars) per headboat angler trip (Liese and Carter 2011). The estimated NOR value per headboat angler trip is \$48 (2016 dollars) (C. Liese, NMFS SEFSC, pers. comm.).

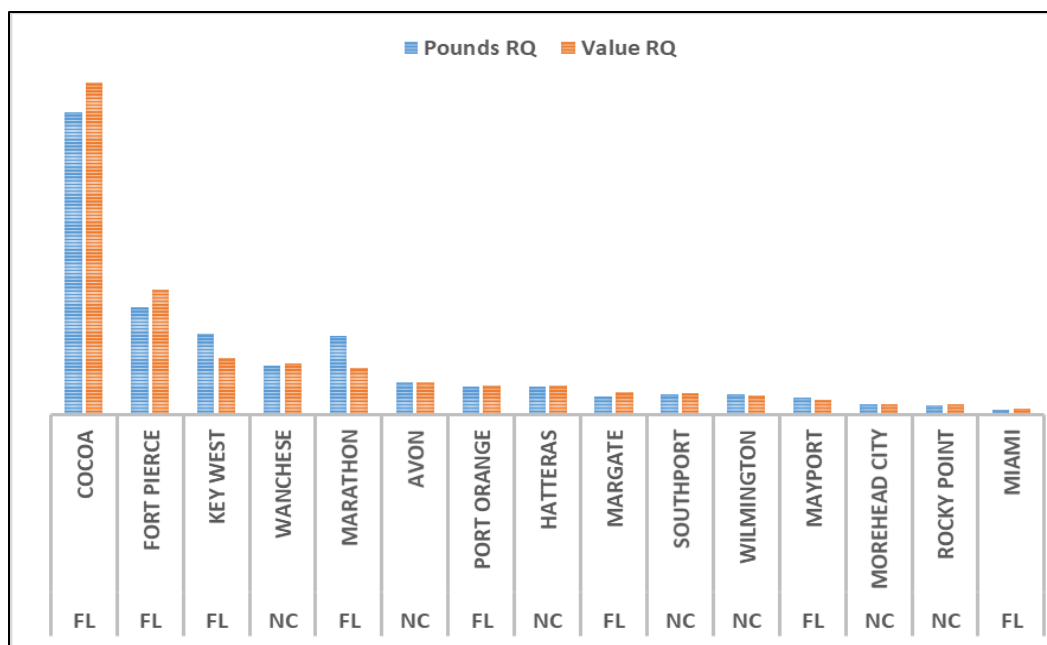
### **3.4 Social Environment**

The CMP fishery is conducted by fishermen in both commercial and recreational sectors. The recreational sector has both for-hire businesses and private recreational anglers that participate in that sector. Most fishing for CMP species is conducted using hook and line gear, although there is some net fishing that is allowed in state waters.

#### **3.4.1 Coastal Migratory Fisheries Regional Quotient**

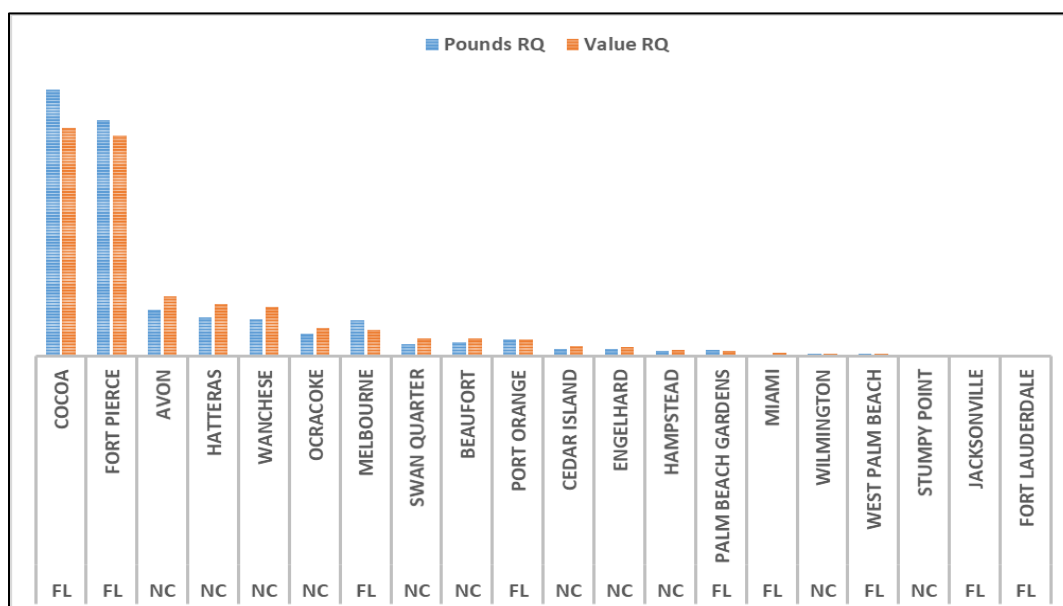
The description of the social environment is limited to those communities along Florida's east coast (including the Keys), Georgia, South Carolina, and North Carolina, with a focus on the communities with the highest levels of participation in the commercial king mackerel and Spanish mackerel portion of the CMP fishery.

To identify key communities associated with the king mackerel commercial fishery, a 'regional quotient' (RQ) is calculated based on the pounds and value (US\$) of king mackerel commercial landings divided by the regional commercial pounds and value of king mackerel landings. These data were assembled from the accumulated landings system with dealer addresses which includes species from both state and federal waters landed in 2019.



**Figure 3.4.1.1.** Top 15 communities ranked by 2019 king mackerel pounds and value RQ.  
Source: 2021 Southeast Regional Office Permit Database

Figure 3.4.1.1 shows the king mackerel pounds and value RQs for 2019 and the top 15 communities, which came from only two states, Florida and North Carolina. The Florida communities of Cocoa and Fort Pierce have much higher RQs for king mackerel than all other communities, with Cocoa far out-pacing the rest of the region. The Outer Banks communities of Wanchese, Hatteras, and Avon are the top three communities in North Carolina for king mackerel RQs. Cocoa and Fort Pierce also have higher values per pound than other communities. No communities in South Carolina or Georgia are included in the top areas for king mackerel.

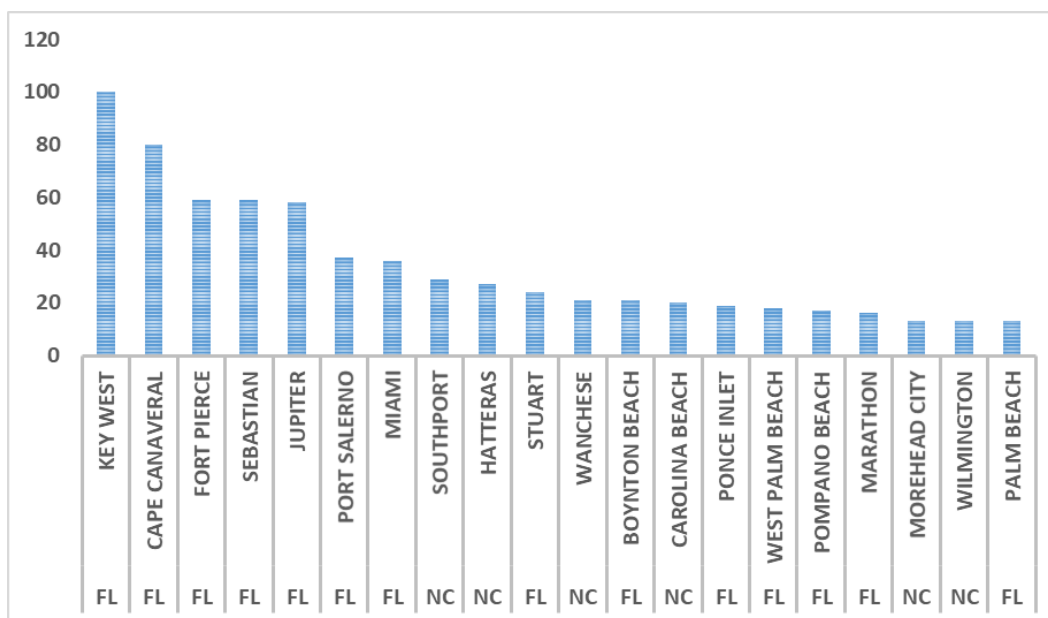


**Figure 3.4.1.2.** Top 20 communities ranked by 2019 Spanish mackerel pounds and value regional quotient (RQ).  
Source: 2021 Southeast Regional Office Permit Database

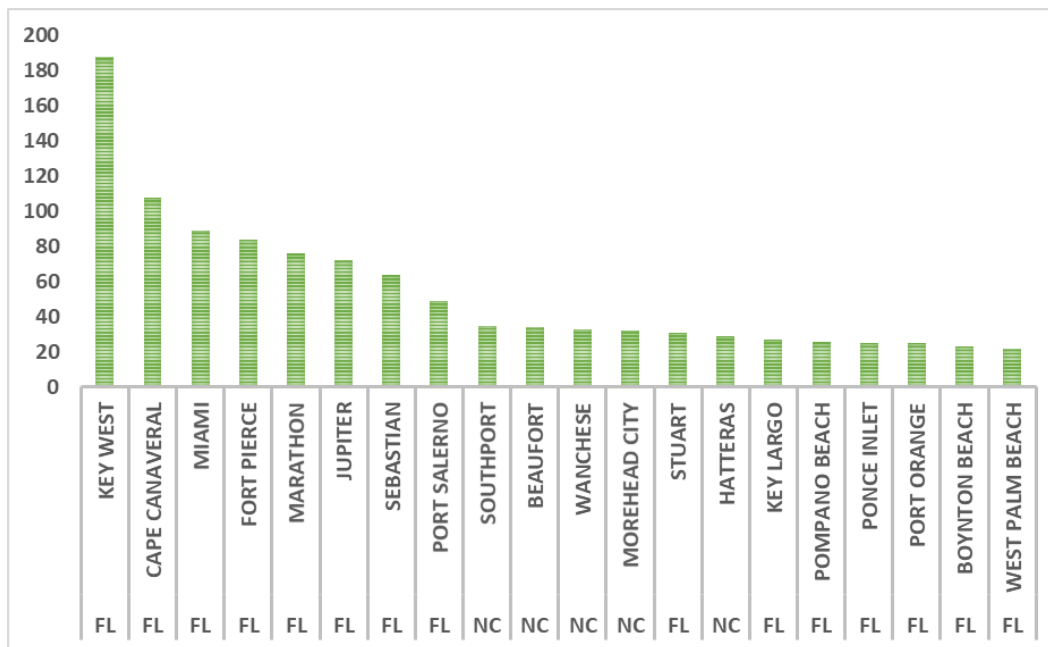
Figure 3.4.1.2 shows the Spanish mackerel pounds and value RQs for 2019 and the top 15 communities, which came from only two states, Florida and North Carolina. The Florida communities of Cocoa and Fort Pierce again have much higher RQs for Spanish mackerel than all other communities, with both communities far above all others. The Outer Banks communities of Wanchese, Hatteras, and Avon are also the top three communities in North Carolina for Spanish mackerel RQs. No communities in South Carolina or Georgia are included in the top areas for Spanish mackerel, as was the case with king mackerel, but do have permitted vessels within those states.

### 3.4.2 Coastal Migratory Fisheries Permits

Figure 3.4.2.1 depicts the king mackerel commercial permits for 2020 and the top 20 communities. The Florida communities with the majority of permits are Key West and Cape Canaveral. The top 7 communities are all in Florida. Southport, North Carolina has the highest number of king mackerel permits for that state. The Outer Banks communities of Hatteras and Wanchese are next, with three other North Carolina communities in the top 20. No communities in South Carolina or Georgia are included in the top areas for king mackerel but there are king mackerel permitted vessels in both states.



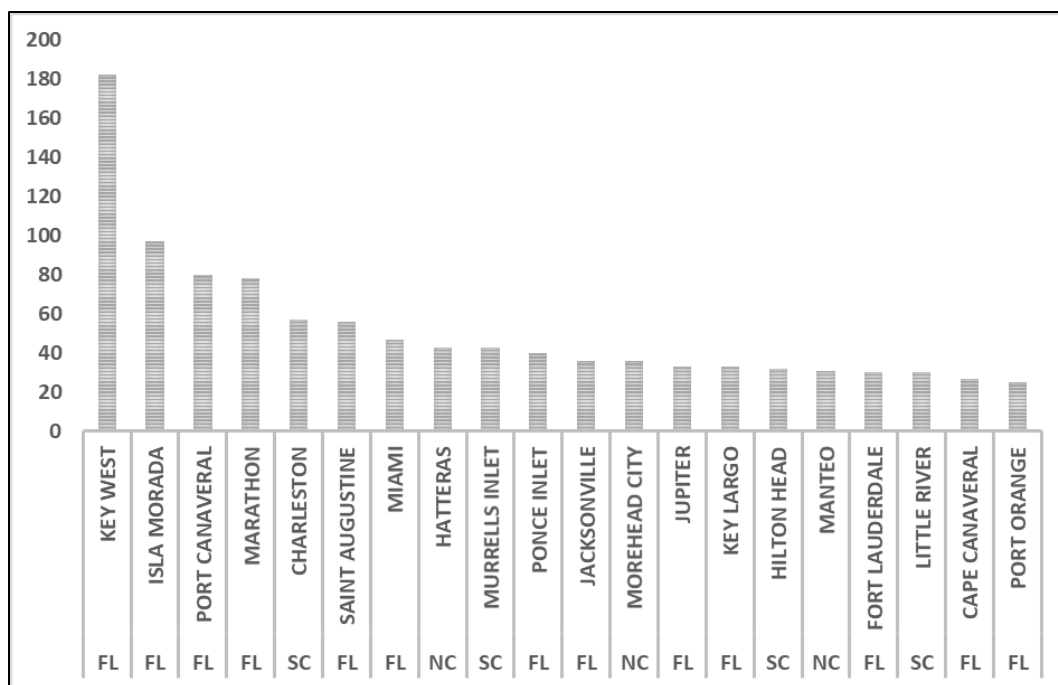
**Figure 3.4.2.1.** Top 20 communities ranked by 2020 king mackerel commercial permits.  
Source: 2021 Southeast Regional Office Permit Database



**Figure 3.4.2.2.** Top 20 communities ranked by 2020 Spanish mackerel commercial permits.  
Source: 2021 Southeast Regional Office Permit Database

Figure 3.4.2.2 depicts the Spanish mackerel federal commercial permits for 2020 and the top 20 communities and are dispersed very much the same as king mackerel. The Florida communities again have the majority of permits with Key West leading all other communities and the top eight all being Florida communities. The next four communities are all in North Carolina. No communities in South Carolina or Georgia are included in the top areas for Spanish mackerel but there are Spanish mackerel permitted vessels in both states.

Figure 3.4.2.3 depicts the South Atlantic coastal migratory for-hire permits for 2020. The Florida communities again have the majority of permits, with Key West leading all other communities, but other South Atlantic states are more represented within the top 20 than commercial permits. South Carolina is represented in the top 20 with Charleston ranked 5<sup>th</sup> in number of for-hire permits with Murrells Inlet, Hilton Head and Little River also included. The highest ranked North Carolina community is Hatteras, ranked eighth, with Morehead City and Manteo in the top areas. No communities in Georgia appear in the top areas for coastal migratory for-hire permitted vessels, but there are permitted vessels in those states.



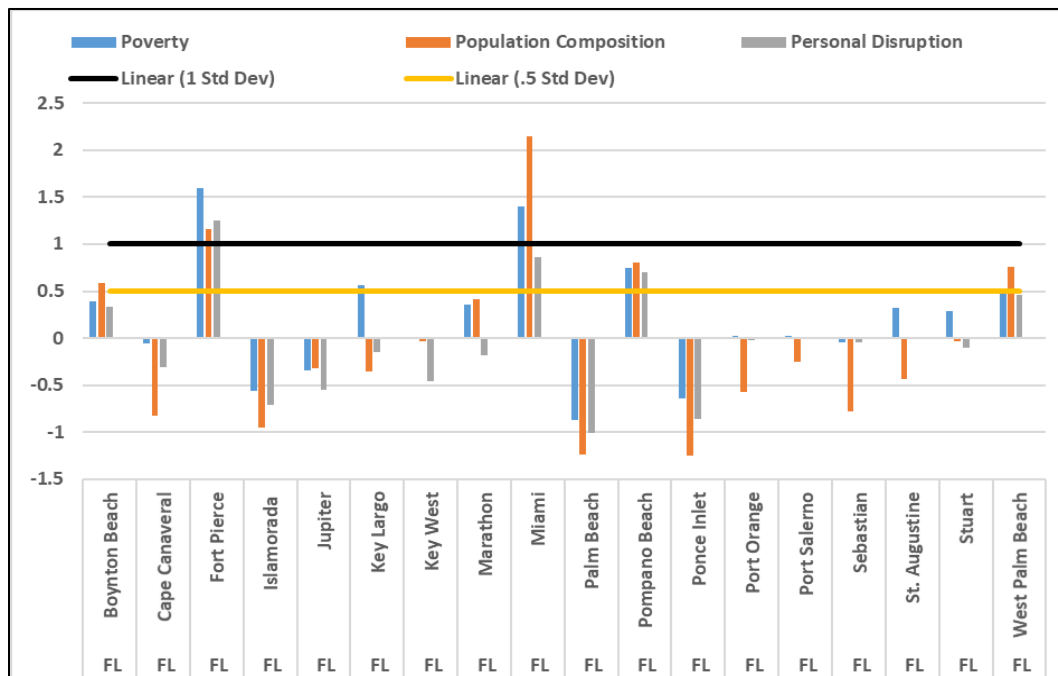
**Figure 3.4.2.3.** Top 20 communities ranked by 2020 coastal migratory for-hire permits.  
Source: 2021 Southeast Regional Office Permit Database

### 3.4.3 Environmental Justice

Executive Order 12898 requires federal agencies conduct their programs, policies, and activities in a manner to ensure individuals or populations are not excluded from participation in, or denied the benefits of, or subjected to discrimination because of their race, color, or national origin. In addition, and specifically with respect to subsistence consumption of fish and wildlife, federal agencies are required to collect, maintain, and analyze information on the consumption patterns of populations who principally rely on fish and/or wildlife for subsistence. This executive order is generally referred to as environmental justice (EJ).

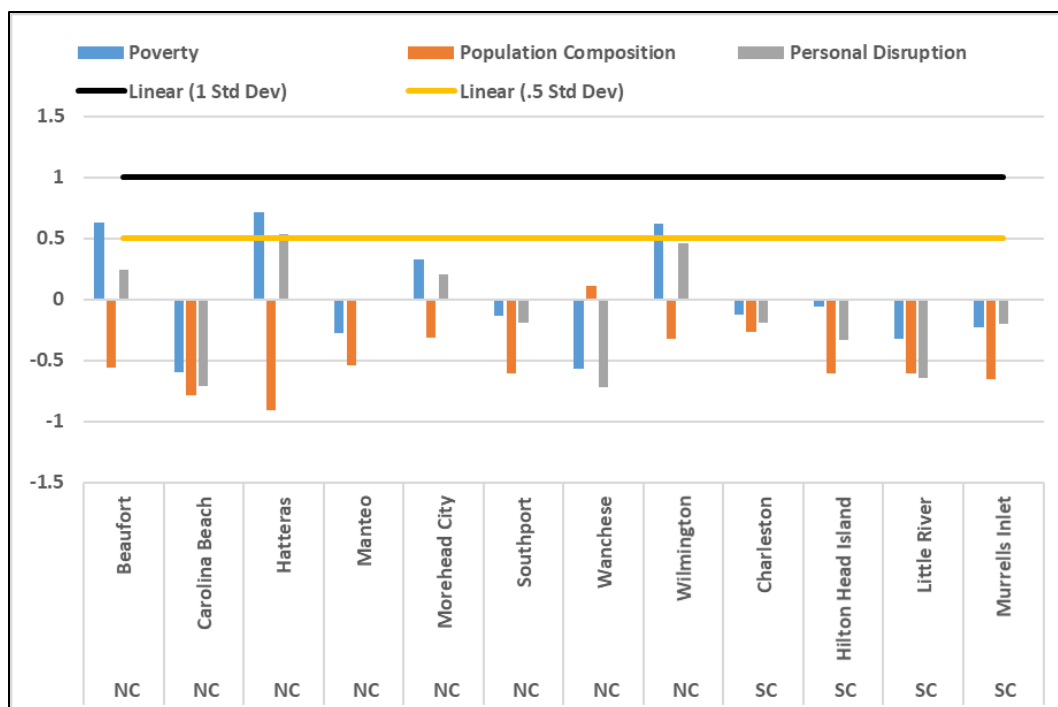
Commercial and recreational anglers and associated industries could be impacted by the proposed actions. However, information on the race and income status for groups at the different participation levels is not available. Although information is available concerning a community's overall status with regard to minorities and poverty (e.g., census data), such information is not available specific to anglers and those involved in the industries and activities, themselves. To help assess whether any EJ concerns arise from the actions in this amendment, a suite of indices was created to examine the social vulnerability of coastal communities. The three indices are poverty, population composition, and personal disruptions. The variables included in each of these indices have been identified through the literature as being important components that contribute to a community's vulnerability. Indicators such as increased poverty rates for different groups, more single female-headed households and households with children under the age of five, disruptions such as higher separation rates, higher crime rates, and unemployment all are signs of populations experiencing vulnerabilities. Again, for those communities that exceed the threshold it would be expected that they would exhibit vulnerabilities to sudden changes or social disruption that might accrue from regulatory change.

Figures 3.4.3.1 and 3.4.3.2 provide the social vulnerability index scores of the top commercial and recreational communities that have been identified as having some association with South Atlantic coastal migratory pelagics. The communities of Fort Pierce and Miami both exceed the threshold of 1 standard deviation for poverty and population composition in Figure 3.4.3.1. Two communities exceed the threshold of 1/2 standard deviation above the mean for more than one index (Pompano Beach and West Palm Beach). These fishing communities would be the most likely to exhibit vulnerabilities to social or economic disruption due to regulatory change with those exceeding 1 standard deviation more vulnerable. However, most communities on Florida's east coast exhibit few vulnerabilities.



**Figure 3.4.3.1.** Community social vulnerability indices for CMP fishing communities on Florida's east coast.

Source: Social Indicators Database 2021 (ACS 2018), NOAA Fisheries, SERO.



**Figure 3.4.3.2.** Community social vulnerability indices for CMP fishing communities in South and North Carolina.

Source: Social Indicators Database 2021 (ACS 2018), NOAA Fisheries, SERO.

The CMP fishing communities of North and South Carolina in Figure 3.4.3.2 also show very few vulnerabilities. There are only three communities (Beaufort, Hatteras, and Wilmington) that exceed the  $\frac{1}{2}$  standard deviation for any index and those are poverty and personal disruption, with poverty being the only vulnerability that all three share. Overall, the communities in the Carolinas may be somewhat resilient to any social change that may occur.

## 3.5 Administrative Environment

### 3.5.1 Federal Fishery Management

Federal fishery management is conducted under the authority of the Magnuson-Stevens Act (16 U.S.C. 1801 et seq.), originally enacted in 1976 as the Fishery Conservation and Management Act. The Magnuson-Stevens Act claims sovereign rights and exclusive fishery management authority over most fishery resources within the EEZ, an area extending 200 nautical miles from the seaward boundary of each of the coastal states, and authority over U.S. anadromous species and continental shelf resources that occur beyond the EEZ.

Responsibility for federal fishery management decision-making is divided between the Secretary of Commerce (Secretary) and eight regional fishery management councils that represent the expertise and interests of constituent states. Regional councils are responsible for preparing, monitoring, and revising management plans for fisheries needing management within their jurisdiction. The Secretary is responsible for promulgating regulations to implement proposed plans and amendments after ensuring that management measures are consistent with the Magnuson-Stevens Act, and with other applicable laws summarized in Appendix A. In most cases, the Secretary has delegated this authority to NMFS.

The Gulf Council is responsible for fishery resources in federal waters of the Gulf. These waters extend to 200 nautical miles offshore from the seaward boundaries of west Florida to Key West, Alabama, Mississippi, Louisiana, and Texas, and those boundaries have been defined by law. The Gulf Council consists of 17 voting members: 11 public members appointed by the Secretary; one each from the fishery agencies of Texas, Louisiana, Mississippi, Alabama, and Florida; and one from NMFS. Non-voting members include representatives of the U.S. Fish and Wildlife Service (USFWS), U.S. Coast Guard (USCG), and Gulf States Marine Fisheries Commission (GSMFC).

The South Atlantic Council is responsible for conservation and management of fishery resources in federal waters of the U.S. South Atlantic. These waters extend from 3 to 200 miles offshore from the seaward boundary of the states of North Carolina, South Carolina, Georgia, and east Florida to Key West. The South Atlantic Council has thirteen voting members: one from NOAA Fisheries Service; one each from the state fishery agencies of North Carolina, South Carolina, Georgia, and Florida; and eight public members appointed by the Secretary. Non-voting members include representatives of the USFWS, USCG, and Atlantic States Marine Fisheries Commission (ASMFC).

The Mid-Atlantic Council has two voting seats on the South Atlantic Council's Mackerel Committee but does not vote during South Atlantic Council sessions. The Mid-Atlantic Council is responsible for fishery resources in federal waters off New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, and North Carolina, but has delegated management of CMP species to the South Atlantic Council.

The Councils use SSCs to review data and science being used in assessments and fishery management plans/amendments. Regulations contained within Fishery Management Plans are enforced through actions of the NOAA's Office for Law Enforcement, the USCG, and various state authorities.

The public is involved in the fishery management process through participation at public meetings, on advisory panels and through Council meetings that, with few exceptions for discussing personnel matters, are open to the public. The regulatory process is in accordance with the Administrative Procedures Act, in the form of "notice and comment" rulemaking, which provides extensive opportunity for public scrutiny and comment, and requires consideration of, and response to, those comments.

### **3.5.2 State Fishery Management**

The purpose of state representation at the Council level is to ensure state participation in federal fishery management decision-making and to promote the development of compatible regulations in state and federal waters. The state governments have the authority to manage their respective state fisheries including enforcement of fishing regulations. Each of the eight states in the Gulf and South Atlantic exercises legislative and regulatory authority over their states' natural resources through discrete administrative units. Although each agency listed below is the primary administrative body with respect to the state's natural resources, all states cooperate with numerous state and federal regulatory agencies when managing marine resources.



The states are also involved through the GSMFC and the ASMFC in management of marine fisheries. These commissions were created to coordinate state regulations and develop management plans for interstate fisheries.

NMFS' State-Federal Fisheries Division is responsible for building cooperative partnerships to strengthen marine fisheries management and conservation at the state, inter-regional, and national levels. This division implements and oversees the distribution of grants for two national (Inter-jurisdictional Fisheries Act and Anadromous Fish Conservation Act) and two regional (Atlantic Coastal Fisheries Cooperative Management Act and Atlantic Striped Bass Conservation Act) programs. Additionally, it works with the commissions to develop and implement cooperative State-Federal fisheries regulations.

More information about these agencies can be found from the following web pages:

Texas Parks & Wildlife Department – <http://www.tpwd.state.tx.us>

Louisiana Department of Wildlife and Fisheries <https://www.wlf.louisiana.gov/>

Mississippi Department of Marine Resources <http://www.dmr.state.ms.us/>

Alabama Department of Conservation and Natural Resources <https://www.outdooralabama.com/>

Florida Fish and Wildlife Conservation Commission <https://myfwc.com/>

Georgia Department of Natural Resources, Coastal Resources Division

<https://coastalgadnr.org/><http://crd.dnr.state.ga.us/>

South Carolina Department of Natural Resources <https://www.dnr.sc.gov/>

North Carolina Department of Environmental Quality <https://deq.nc.gov/>

# Chapter 4. Environmental Effects

## 4.1 Action 1. Revise the acceptable biological catch, total annual catch limit and annual optimum yield for Atlantic migratory group king mackerel.

### 4.1.1 Biological Effects

#### *Expected effects to Atlantic king mackerel*

The current stock (total) annual catch limit (ACL) for Atlantic migratory group king mackerel (Atlantic king mackerel) is 12,700,000 pounds (lbs). The current stock ACL is based on the South Atlantic Fishery Management Council's (South Atlantic Council) Scientific and Statistical Committee's (SSC) acceptable biological catch (ABC) recommendation and was implemented through Amendment 26 to the Fishery Management Plan (FMP) for Coastal Migratory Pelagic (CMP) Resources in the Gulf of Mexico and Atlantic Region (CMP FMP) (GMFMC and SAFMC, 2016.) (Amendment 26). The current ABC recommendation was developed following the 2014 Southeast Data, Assessment and Review (SEDAR) 38 assessment (SEDAR 38 (2014)). The current ABC incorporates recreational landings for Atlantic king mackerel that were tracked using Marine Recreational Fishery Statistics Survey (MRFSS) estimation methods.

The revised ACLs proposed in **Alternative 2, Preferred Alternative 3, Alternative 4, and Alternative 5** are based on the SSC's new ABC recommendation that was developed following the SEDAR 38 Update (2020). The new recommendation uses the Marine Recreational Information Program's (MRIP) newer Fishing Effort Survey (FES) methodology, which is considered the best scientific information available (BSIA), and **Alternatives 2-5**, including **Preferred Alternative 3**, are viable alternatives for further analysis (Table 4.1.1.1). **Alternative 1 (No Action)** is not a viable alternative because it would retain the current total ACL for Atlantic king mackerel (equal to the current ABC), which is based on SEDAR 38 (2014), and therefore would no longer be based on the BSIA.

Historical landings by sector, and proposed revised sector ACLs, for Atlantic king mackerel are discussed in Action 2. Revising Atlantic king mackerel catch levels as proposed in **Alternative 2, Preferred Alternative 3, Alternative 4, and Alternative 5** would not be expected to result in negative biological impacts to the stock since overall catch would be constrained to the ACL, and accountability measures (AM) would prevent the ACL and overfishing limit (OFL) from

#### **Alternatives**

1. (No Action). The total annual catch limit and annual optimum yield for Atlantic king mackerel is equal to the current acceptable biological catch level (12.7mp).
2. Revise the acceptable biological catch, total annual catch limit and annual optimum yield for Atlantic king mackerel. OY=ACL=ABC.
3. **Revise the acceptable biological catch, total annual catch limit and annual optimum yield for Atlantic king mackerel. OY=ACL=95%ABC.**
4. Revise the acceptable biological catch, total annual catch limit and annual optimum yield for Atlantic king mackerel. OY=ACL=90%ABC.
5. Revise the acceptable biological catch, total annual catch limit and annual optimum yield for Atlantic king mackerel. OY=ACL=21,800,000 pounds.

\*See Chapter 2 for detailed language of alternatives. Preferred indicated in bold.

being exceeded, correct for overages if they occur (if the stock is in an overfished condition), and prevent overfishing.

**Table 4.1.1.1.** Atlantic king mackerel OFL and ABC recommendations (lbs) based on projections from SEDAR 38 Update (2020), and ACL options for Alternatives 2-5.

Fishing Year	Overfishing Limit (OFL)	Alternative 2 (ACL=ABC)	Preferred Alternative 3 (ACL=95%ABC)	Alternative 4 (ACL=90%ABC)	Alternative 5 (Constant Catch)
2022/23	33,900,000	32,800,000	31,160,000	29,520,000	21,800,000
2023/24	29,400,000	28,400,000	26,980,000	25,560,000	21,800,000
2024/25	26,300,000	25,400,000	24,130,000	22,860,000	21,800,000
2025/26	24,200,000	23,300,000	22,135,000	20,970,000	21,800,000
2026/27+	22,800,000	21,800,000	20,710,000	19,620,000	21,800,000

**NOTE:** The assessment and these projections use recreational data calibrated to the MRIP FES Survey.

The SEDAR 38 Update (2020) indicates that the Atlantic king mackerel ACL can be increased without having negative effects on the sustainability of the stock. **Preferred Alternative 3** and **Alternative 4** would have a greater long-term positive biological effect to the stock than **Alternative 2** because they would create a buffer between the ABC, annual optimum yield (OY) and total ACL, with **Alternative 4** setting the most conservative buffer with the total ACL set at 90% of the ABC. **Alternative 5** would set the total ACL and annual OY equal to the updated ABC level of 21,800,000 lbs, which is the lowest catch level among the recommended ABC values. **Alternative 5** is a constant catch value for 2022/2023 and subsequent fishing years or until changed by a future management action. Therefore, **Alternative 5** is the most conservative alternative under Action 1. Specifying a buffer between the ABC, OY and ACL, as proposed under **Preferred Alternative 3**, **Alternative 4**, and **Alternative 5**, would provide greater assurance that overfishing is prevented, and the long-term average biomass is near or above SSB<sub>MSY</sub>. **Alternative 2** would set the ACL and OY equal to the ABC leaving no buffer between the two harvest parameters, which may increase risk that harvest could exceed the ABC. Amendment 18 to the CMP FMP (GMFMC/SAFMC 2011) established an ABC control rule for Atlantic migratory groups king mackerel and Spanish mackerel. In accordance with the Magnuson-Stevens Fishery Conservation and Management Act National Standard (NS) 1 guidelines, the ABC control rule takes into account scientific and management uncertainty. The NS 1 guidelines indicate an ACL may typically be set very close to the ABC. Setting a buffer between the ACL and ABC would be appropriate in situations where there is uncertainty in whether or not management measures are constraining fishing mortality to target levels.

Although the current and proposed ACLs and ABCs, based on SEDAR 38 (2014) and SEDAR 38 Update (2020), respectively, are not directly comparable because the updated assessment includes changes in the recreational catch estimates based on new methodology, the biological benefits to the stock would be expected to be greatest with **Alternative 5**, followed by **Alternative 4**, **Preferred Alternative 3**, and **Alternative 2**. Since **Alternative 1 (No Action)** is not based on the recent update to the Atlantic king mackerel stock assessment (SEDAR 38 Update, 2020), it would no longer represent BSIA and, therefore, is not a viable alternative.

### ***Expected Effects to Bycatch and Discards***

When compared to **Alternative 1 (No Action)**, increasing the total ACL for Atlantic king mackerel under the each of the alternatives for Action 1 could result in fewer discards since less fish would need to be returned to the water. However, because neither sector has harvested their respective ACLs (since 2012 for the recreational sector, and since 2000 for the commercial sector), the total ACL has not been met. Therefore, effects on discards from Action 1 are expected to be neutral. Additionally, the Joint Generic Dealer Reporting Amendment implemented in 2014 (GMFMC and SAFMC, 2013b), has increased the required reporting frequency for dealers to once per week, and requires a single dealer permit for all finfish dealers in the Southeast Region. Furthermore, the Joint Generic Charter/Headboat Reporting Amendment (Amendment 22 to the CMP FMP, GMFMC and SAFMC 2013c), also implemented in 2014, requires all federally permitted headboats in the South Atlantic to report landings information electronically and on a weekly basis. The new Commercial Landings Monitoring system and actions in the Joint Generic Dealer Reporting and Amendment 22 have provided more timely and accurate data reporting and have reduced the incidence of quota overages and management uncertainty. Improvements to recreational reporting requirements through the implementation of electronic reporting for for-hire vessels (Amendment 39 to the Fishery Management Plan for the Snapper Grouper Fishery of the South Atlantic Region, 2017), is expected to contribute to better recreational landings data and closure estimates. See **Appendix G** (BPA) for information on bycatch and discards.

### ***Expected Effects to Protected Species and Essential Fish Habitat***

The alternatives under this action would not significantly modify the way in which the CMP fishery is prosecuted in terms of gear types used. Therefore, there are no additional impacts on Endangered Species Act (ESA)-listed species or designated critical habitats anticipated as a result of this action (see **Section 3.2.** for a detailed description of ESA-listed species and critical habitat in the action area). Furthermore, no adverse impacts on Essential Fish Habitat (EFH) or EFH-Habitat Areas of Particular Concern (HAPC) are expected to result from any of the alternatives considered for this action (see **Section 3.1.** and **Appendix D** for detailed descriptions of EFH in the South Atlantic region).

These predicted effects on ESA-listed species, EFH, and designated critical habitats are applicable to all actions in this amendment.

#### **4.1.2 Economic Effects**

In general, ACLs that allow for more fish to be landed can result in increased positive economic effects if harvest increases without notable effects on the stock of a species. The ACL does not directly impact the fishery for a species unless harvest changes, fishing behavior changes, or the ACL is exceeded, thereby potentially triggering AMs such as harvest closures or other restrictive measures. As such, ACLs that are set above observed landings in a fishery for a species and do not change harvest or fishing behavior may not have realized economic effects each year. Nevertheless, ACLs set above observed average harvest levels do create a gap between the ACL and typical landings that may be utilized in years of exceptional abundance or accessibility of a species, thus providing the opportunity for increased landings and a reduced likelihood of triggering restrictive AMs. As such there are potential economic benefits from ACLs that allow for such a gap.

As noted in **Section 4.1.1, Alternative 1 (No Action)** is not a viable alternative. The potential revised total ACLs for Atlantic king mackerel in **Alternative 2** through **Alternative 5** are all higher than the observed landings in recent years. Based on the average landings over the most recent five years of available data (2015/16-2019/20), landings would be expected to continue to be below the existing and potential new ACLs and thus the ACLs are not constraining on harvest or fishing activity. As a result, no direct economic effects are anticipated from **Alternative 2** through **Alternative 5** in the short-term. This includes no anticipated change in direct net economic benefits to the commercial sector, including consumer surplus for seafood consumers or producer surplus for commercial vessels or dealers. Additionally, there is no anticipated change in direct net economic benefits to the recreational sector, including consumer surplus for anglers or producer surplus in the for-hire component of the recreational sector.

While king mackerel harvest or fishing behavior for king mackerel are not expected to change as a result of revising the total ACL, a larger buffer between the ACL and observed landings would allow for higher potential landings and reduce the likelihood of restrictive AMs being triggered that would lead to short-term negative economic effects. Thus, under this notion, from a short-term economic perspective, **Alternative 2** would have the highest potential net economic benefits, followed by **Preferred Alternative 3, Alternative 4, Alternative 5, and Alternative 1 (No Action)**, which is not a viable alternative (Table 4.1.2.1).

**Table 4.1.2.1.** Percent difference between the ACLs in **Action 1** compared to 5-year average landings from 2015/16-2019/20.

<b>Alternative<sup>1</sup></b>	<b>King mackerel ACL (lbs)<sup>1</sup></b>	<b>Percent difference between the ACL and average annual landings from 2015/2016-2019/2020<sup>2</sup></b>
Alternative 1 (No Action)	12,700,000	64%
Alternative 2	28,400,000	73%
<b>Preferred Alternative 3</b>	<b>26,980,000</b>	<b>72%</b>
Alternative 4	25,560,000	71%
Alternative 5	21,800,000	65%

<sup>1</sup>**Alternative 1 (No Action)** is tracked in part using CHTS estimates for charter and private recreational landings and thus is not applicable to compare to the other alternatives. **Alternatives 2** through **4** would be tracked in part using FES estimates for charter and private recreational landings.

<sup>2</sup> Assumes the 2022/23 total ACL since this is the first full year that the revised total ACL would be implemented.

### 4.1.3 Social Effects

The ACL for any stock does not directly affect resource users unless the ACL is met or exceeded, in which case AMs that restrict, or close harvest could negatively impact the commercial, for-hire, and private recreational sectors. AMs can have significant direct and indirect social effects because, when triggered, can restrict harvest in the current season or subsequent seasons. While the negative effects are usually short-term, they may at times induce other indirect effects through changes in fishing behavior or business operations that could have long-term social effects, such as increased pressure on another species, or fishermen having to stop fishing altogether due to regulatory closures. However, restrictions on harvest contribute to sustainable management goals, and are expected to be beneficial to fishermen and communities

in the long term. Generally, the higher the ACL the greater the short-term social benefits that would be expected to accrue if harvest is sustainable.

Under **Alternative 2, Preferred Alternative 3, Alternative 4, and Alternative 5** the ACL for Atlantic king mackerel would be based on the most recent stock assessment and updated MRIP estimates. Adjustments in an ACL based on updated information are necessary to ensure continuous social benefits over time, **Alternative 1 (No Action)** would not update the Atlantic king mackerel ACL based on current information and would not provide the social benefits associated with up-to-date scientific information.

In general, a higher ACL would lower the chance of triggering a recreational or commercial AM and result in the lowest level of negative effects on the recreational and commercial sectors. Additionally, higher ACLs may provide opportunity for commercial and recreational fishermen to expand their harvest providing social benefits associated with increased income to fishing businesses within the community and higher trip satisfaction. Among the action alternatives, **Alternative 2** would be the most beneficial for fishermen, followed by **Preferred Alternative 3, Alternative 4, and Alternative 5**.

#### **4.1.4 Administrative Effects**

Since ACLs are already in place for Atlantic king mackerel, modifying the ACLs for Atlantic king mackerel under **Alternative 2, Preferred Alternative 3, Alternative 4, and Alternative 5** are not likely to have negative administrative impacts. **Alternative 1 (No Action), Alternative 2, Preferred Alternative 3, Alternative 4, and Alternative 5** would not result in significant administrative cost or time burdens other than notifying fishery participants of the change in the sector ACLs and continued monitoring of the sector ACLs. The burden on law enforcement would not change based on any of the proposed alternatives since commercial and recreational quota closures are currently enforced.

## 4.2 Action 2. Revise sector allocations and sector annual catch limits for Atlantic migratory group king mackerel.

### 4.2.1 Biological Effects

#### *Expected effects to Atlantic king mackerel*

Biological effects to the stock are not expected to vary between **Preferred Alternative 1 (No Action)**, **Alternative 2**, and **Alternative 3**, since they do not change the total ACL specified in Action 1. Furthermore, the commercial sector for Atlantic king mackerel has effective in-season AMs in place to prevent the ACL from being exceeded. The current sector allocation for Atlantic king mackerel (37.1% recreational/62.9% commercial) was specified by Amendment 1 to the CMP FMP (GMFMC and SAFMC, 1985). The current stock (total) ACL for Atlantic king mackerel is 12,700,000 lbs, with 8,000,000 lbs allocated to the recreational sector and 4,700,000 lbs allocated to the commercial sector. The current sector ACLs are based on landings from March to October and were based on recreational data as per the older MRIP Coastal Household Telephone Survey (CHTS) method as well as an older data stream for headboat and commercial landings. Tables 4.2.1.1 through 4.2.1.3 show the sector, zone, and southern zone seasonal allocations resulting from applying the percentages in **Preferred Alternative 1 (No Action)**, **Alternative 2**, and **Alternative 3**, (Tables 4.2.1.1 – 4.2.1.4) based on the revised total ACLs from Preferred alternative 3 under Action 1, (Table 4.1.1.1). The revised total ACL incorporates recreational data as per the newer MRIP FES method, and updates to commercial and headboat landings.

#### *Alternatives*

**1 (No Action).** Retain the current recreational sector and commercial sector allocations as **62.9% and 37.1%, respectively, of the revised total annual catch limit for Atlantic king mackerel.**

2. Allocate 22.7% of the total annual catch limit to the commercial sector and 77.3% of the total annual catch limit to the recreational sector.

3. Allocate 31.1% of the total annual catch limit to the commercial sector and 68.9% of the total annual catch limit to the recreational sector.

\*See Chapter 2 for detailed language of alternatives. Preferred indicated in bold.

**Table 4.2.1.1.** Current and proposed Atlantic king mackerel sector allocations for Alternatives 1-3.

Action 2 (Allocations)	Commercial Allocation	Recreational Allocation	Basis
<b>Preferred Alternative 1 (No Action)</b>	<b>37.1%</b>	<b>62.9%</b>	<b>See Council rationale in Section 5.2</b>
Alternative 2 <sup>1</sup>	22.7%	77.3%	Maintains current commercial ACL beginning in 2026/2017 season and allocates the remainder to the recreational sector
Alternative 3	31.1%	68.9%	Average landings 2014-2019

**Note:** The percentages for Alternative 3 reflect Preferred Alternative 3 in Action 1 in Amendment 34 to the CMP FMP and Atlantic Region. The revised total ACL incorporate recreational data as per MRIP using the Fishery Effort Survey method, as well as updates to commercial and for-hire landings.

**Table 4.2.1.2.** Proposed sector allocations (lbs) for Atlantic king mackerel based on the revised total ACL from Preferred Alternative 3 in Action 1.

Fishing Year	Total ACL	Preferred Alternative 1 (No Action)		Alternative 2		Alternative 3	
		Commercial (37.1%)	Recreational (62.9%)	Commercial (22.7%)	Recreational (77.3%)	Commercial (31.1%)	Recreational (68.9%)
2022/23	31,160,000	11,560,360	19,599,640	7,073,320	24,086,680	9,690,760	21,469,240
2023/24	26,980,000	10,009,580	16,970,420	6,124,460	20,855,540	8,390,780	18,589,220
2024/25	24,130,000	8,952,230	15,177,770	5,477,510	18,652,490	7,504,430	16,625,570
2025/26	22,135,000	8,212,085	13,922,915	5,024,645	17,110,355	6,883,985	15,251,015
2026/27+	20,710,000	7,683,410	13,026,590	4,701,170	16,008,830	6,440,810	14,269,190

**Note:** The proposed ACLs in Alternatives 1 (No Action) through 3 reflect Preferred Alternative 3 in Action 1 in Amendment 34 to the CMP FMP and Atlantic Region. The revised total ACL incorporate recreational data as per MRIP using the Fishery Effort Survey method, as well as updates to commercial and for-hire landings.

**Table 4.2.1.3.** Proposed commercial northern and southern zone allocations (quotas) (lbs) for Atlantic king mackerel based on the revised total ACL from Preferred Alternative 3 in Action 1.

Fishing Year	Preferred Alternative 1 (No Action)		Alternative 2		Alternative 3	
	Northern Zone (23.04%)	Southern Zone (76.96%)	Northern Zone (23.04%)	Southern Zone (76.96%)	Northern Zone (23.04%)	Southern Zone (76.96%)
2022/23	2,663,507	8,896,853	1,629,693	5,443,627	2,232,751	7,458,009
2023/24	2,306,207	7,703,373	1,411,076	4,713,384	1,933,236	6,457,544
2024/25	2,062,594	6,889,636	1,262,018	4,215,492	1,729,021	5,775,409
2025/26	1,892,064	6,320,021	1,157,678	3,866,967	1,586,070	5,297,915
2026/27+	1,770,258	5,913,152	1,083,150	3,618,020	1,483,963	4,956,847

**Note:** The proposed ACLs in Alternatives 1 (No Action) through 3 reflect Preferred Alternative 3 in Action 1 in Amendment 34 to the CMP FMP and Atlantic Region. The revised total ACL incorporate recreational data as per MRIP using the Fishery Effort Survey method, as well as updates to commercial and for-hire landings.

**Table 4.2.1.4.** Proposed commercial southern zone seasonal allocations (quota) (lbs) for Atlantic king mackerel based on the revised total ACL from Preferred Alternative 3 in Action 1.

Fishing Year	Preferred Alternative 1 (No Action)		Alternative 2		Alternative 3	
	SZ Season 1 (60%)	SZ Season 2 (40%)	SZ Season 1 (60%)	SZ Season 2 (40%)	SZ Season 1 (60%)	SZ Season 2 (40%)
2022/23	5,338,112	3,558,741	3,266,176	2,177,451	4,474,805	2,983,204
2023/24	4,622,024	3,081,349	2,828,031	1,885,354	3,874,527	2,583,018
2024/25	4,133,782	2,755,854	2,529,295	1,686,197	3,465,246	2,310,164
2025/26	3,792,012	2,528,008	2,320,180	1,546,787	3,178,749	2,119,166
2026/27+	3,547,891	2,365,261	2,170,812	1,447,208	2,974,108	1,982,739

**Note:** The proposed ACLs in Alternatives 1 (No Action) through 3 reflect Preferred Alternative 3 in Action 1 in Amendment 34 to the CMP FMP and Atlantic Region. The revised total ACL incorporate recreational data as per MRIP using the Fishery Effort Survey method, as well as updates to commercial and for-hire landings.



**Table 4.2.1.5.** Atlantic king mackerel recreational landings by year for the 2000/2001 through 2019/2020 fishing years in lbs ww.

Fishing Year	Fishing Year	Landings (lb ww)
April 1 through March 31	2000/2001	9,259,038
	2001/2002	6,665,905
	2002/2003	10,034,879
	2003/2004	8,113,088
	2004/2005	8,172,472
March 1 through February 28	2005/2006	5,493,679
	2006/2007	9,972,016
	2007/2008	11,323,009
	2008/2009	6,811,391
	2009/2010	8,534,919
	2010/2011	4,974,195
	2011/2012	3,619,123
	2012/2013	3,014,884
	2013/2014	2,982,792
	2014/2015	3,780,719
	2015/2016	3,141,846
	2016/2017	4,523,353
	2017/2018	5,168,647
	2018/2019	5,840,390
	2019/2020	7,053,331

Source: MRIP\_FES\_rec81\_20wv6\_02Mar21w2014to2020LAcreel.xlsx

**Table 4.2.1.6.** Atlantic king mackerel commercial landings by year for the 2000/2001 through 2019/2020 fishing years.

Fishing Year	Fishing Year	Landings (lbs)
April 1 through March 31	2000/2001	2,101,605
	2001/2002	2,015,443
	2002/2003	1,736,623
	2003/2004	1,725,840
	2004/2005	2,818,029
March 1 through February 28	2005/2006	2,249,706
	2006/2007	2,993,392
	2007/2008	2,665,020
	2008/2009	3,105,888
	2009/2010	3,561,137
	2010/2011	3,402,676
	2011/2012	2,052,140
	2012/2013	1,346,434
	2013/2014	1,138,833
	2014/2015	1,393,419
	2015/2016	1,810,640
	2016/2017	1,555,185
	2017/2018	2,688,778
	2018/2019	2,899,528
	2019/2020	2,971,512

Sources: Commercial landings from 2000 to 2013 are from ACL\_FILES\_100920.xlsm; and commercial landings from 2014 to 2020 are from WH\_ACLs\_2014-2020\_05APR2021workingcopy.xlsx

Prior to the implementation of Amendment 26, the management boundary between the Gulf and Atlantic migratory groups of king mackerel shifted between the summer (April 1 – October 31) and winter (November 1 – March 31) seasons. During the winter season the east coast of Florida from the Volusia/Flagler County boundary to the Miami-Dade/Monroe County boundary (known as the east coast subzone) was considered part of Gulf migratory group king mackerel. Amendment 26 also established a single year-round boundary for separating the Gulf and Atlantic migratory groups of king mackerel at the Miami-Dade/Monroe County, Florida, boundary. There have been no closures for the recreational sector of Atlantic king mackerel since prior to the year 2000. Additionally, there have been no closures to the commercial sector for Atlantic migratory group king mackerel since prior to the year 2000. However, when the east coast of Florida (east coast subzone) was considered part of the Gulf migratory group king mackerel, it did experience early closures during the 2007/2008, 2008/2009, 2009/2010, 2010/2011, and 2011/2012 seasons.

Based on the new MRIP FES recreational landings, none of the proposed recreational ACLs are expected to be reached. An average of the last five years (2015/2016 through 2019/2020) of MRIP FES fishing year landings are 5,145,513 lbs, and the maximum MRIP FES landings was 7,053,331 lbs. These totals are both below the lowest recreational ACLs proposed in Action 2.

Therefore, no closures are expected for the recreational sector for **Preferred Alternative 1 (No Action)**, **Alternative 2**, and **Alternative 3**.

Similarly, based on commercial fishing year landings for the last five years (2015/2016 through 2019/2020), none of the proposed commercial ACLs under **Preferred Alternative 1 (No Action)**, **Alternative 2**, and **Alternative 3** are expected to be reached. An average of the last five years of commercial landings is 2,385,128 lbs and the maximum commercial landings was 2,971,512 lbs. These are both below the lowest commercial ACLs under **Preferred Alternative 1 (No Action)**, **Alternative 2**, and **Alternative 3**. Thus, no closures are expected for the commercial sector in **Preferred Alternative 1 (No Action)**, **Alternative 2**, and **Alternative 3**.

#### **4.2.2 Economic Effects**

Sector ACLs are the result of applying sector allocations to the total ACL. In general, sector ACLs that allow for more fish to be landed can result in increased positive economic effects if harvest increases without notable long-term effects on the health of a stock. The sector ACL does not directly impact the fishery for a species unless harvest changes, fishing behavior changes, or the sector ACL is exceeded, thereby potentially triggering AMs such as harvest closures or other restrictive measures. As such, sector ACLs that are set above observed landings in a fishery for a species and do not change harvest or fishing behavior may not have realized economic effects each year. Nevertheless, sector ACLs set above observed average harvest levels do create a gap between the sector ACL and typical landings that may be utilized in years of exceptional abundance or accessibility of a species, thus providing the opportunity for increased landings and a reduced likelihood of triggering restrictive AMs. As such there are potential economic benefits from sector ACLs that allow for such a gap between average landings and the sector ACL.

The potential revised sector ACLs for Atlantic king mackerel in **Preferred Alternative 1 (No Action)** through **Alternative 3** are all higher than the observed landings in recent years. Based on the average landings over the most recent five years of available data (2015/16-2019/20), landings would be expected to continue to be below the potential new sector ACLs for both the commercial and recreational sectors, regardless of the alternative that is chosen, and thus the sector ACLs are not constraining on harvest or expected to alter fishing activity. Also of note is that the existing sector ACLs in place currently, while not directly comparable in absolute terms, are not constraining on either sector. As such, no direct economic effects are anticipated from **Preferred Alternative 1 (No Action)** through **Alternative 3** in the short-term. This includes no anticipated change in direct net economic benefits to the commercial sector, including consumer surplus for seafood consumers or producer surplus for commercial vessels or dealers. Additionally, there is no anticipated change in direct net economic benefits to the recreational sector, including consumer surplus for anglers or producer surplus in the for-hire component of the recreational sector.

While neither king mackerel harvest nor fishing behavior for king mackerel are expected to change for either the commercial or recreational sectors as a result of revising the sector ACLs, a larger gap between the sector ACL and observed landings would allow for a higher potential increase in landings and reduce the likelihood of restrictive AMs being triggered that would lead to short-term negative economic effects. Thus, under this notion, the alternatives in **Action 2** can

be ranked for the commercial sector from a short-term economic perspective with **Preferred Alternative 1 (No Action)** having the highest potential economic benefit, followed by **Alternative 3** and **Alternative 2**. For the recreational sector the ranking would be the opposite from a short-term economic perspective with **Alternative 2** having the highest potential economic benefit, followed by **Alternative 3** and **Preferred Alternative 1 (No Action)** (Table 4.2.2.1 and Table 4.2.2.2).

**Table 4.2.2.1.** Percent difference between the commercial sector ACLs (lbs) in **Action 2** compared to 5-year average landings from 2015/16-2019/20.<sup>a</sup>

	Pref. Alternative 1 (No Action)		Alternative 2		Alternative 3	
Fishing Year	Commercial sector ACL	Percent difference between the sector ACL and 5-year average annual landings	Commercial sector ACL	Percent difference between the sector ACL and 5-year average annual landings	Commercial sector ACL	Percent difference between the sector ACL and 5-year average annual landings
2022/23	11,560,360	79%	7,073,320	66%	9,690,760	75%
2023/24	10,009,580	76%	6,124,460	61%	8,390,780	72%
2024/25	8,952,230	73%	5,477,510	56%	7,504,430	68%
2025/26	8,212,085	71%	5,024,645	53%	6,883,985	65%
2026/27+	7,683,410	69%	4,701,170	49%	6,440,810	63%

<sup>a</sup>Based on the total ACL in Preferred Alternative 3 of Action 1 to determine the sector ACL.

**Table 4.2.2.2.** Percent difference between the recreational sector ACLs (lbs) in **Action 2** compared to 5-year average landings (in FES units) from 2015/16-2019/20.<sup>a</sup>

	Pref. Alternative 1 (No Action)		Alternative 2		Alternative 3	
Fishing Year	Recreational sector ACL	Percent difference between the sector ACL and 5-year average annual landings	Recreational sector ACL	Percent difference between the sector ACL and 5-year average annual landings	Recreational sector ACL	Percent difference between the sector ACL and 5-year average annual landings
2022/23	19,599,640	74%	24,086,680	79%	21,469,240	76%
2023/24	16,970,420	70%	20,855,540	75%	18,589,220	72%
2024/25	15,177,770	66%	18,652,490	72%	16,625,570	69%
2025/26	13,922,915	63%	17,110,355	70%	15,251,015	66%
2026/27+	13,026,590	60%	16,008,830	68%	14,269,190	64%

<sup>a</sup>Based on the total ACL in Preferred Alternative 3 of Action 1 to determine the sector ACL.

### 4.2.3 Social Effects

Sector allocations exist for the recreational and commercial sectors already, **Preferred Alternative 1 (No Action)** would maintain the current allocation percentages and may have few social effects as both sectors would see an increase in available poundage. With **Alternative 2**,

and **Alternative 3** there would be a decrease in the commercial percentage compared to **Alternative 1 (No Action)**, which could have some negative social effects if commercial fishermen have a negative perception of this change due to the decrease in fishing opportunity and concerns about long-term social effects, especially if other actions further decreased harvest opportunities. However, the increase in poundage for both sectors may result in positive social benefits associated with increased harvest.

As mentioned, there can be many different social effects that result as allocations are discussed further, and perceptions are formed. In the past there has been some resistance to further decreasing a given sector's percentage allocation. It is difficult to predict the social effects with any allocation scheme as it would depend upon other actions in conjunction with this one. A reduction in allocation for one sector may be compounded by a restrictive choice of ABC or ACL (**Action 1**) and may have further effects that could be either negative or positive depending upon the combination of effects. Therefore, the choice of an allocation would need to be assessed with other actions within this amendment to determine the overall social effects and whether short-term losses are offset by any long-term biological gains.

Based on **Action 1-Preferred Alternative 3** and recent commercial and recreational landings, none of the proposed commercial or recreational ACLs are expected to be met, resulting in triggering of the AMs (**Section 4.2.1**). Additionally, it is unlikely that the commercial Northern and Southern Zones would meet their respective quota nor would the Southern Zone's season one or season two quota be met. Additionally, modifications to recreational (**Actions 4 and 5**) are not anticipated to increase landings to the extent that would result in a closure for either sector.

#### **4.2.4 Administrative Effects**

Compared to **Preferred Alternative 1 (No Action)**, none of the action alternatives under consideration for Atlantic king mackerel allocations would result in commercial or recreational closures; therefore, no significant impacts on the administrative environment would be expected. Additionally, none of the Action 2 alternatives are likely to result in increased staff time, require increased agency funding, or alter the manner in which law enforcement efforts are presently carried out. Other administrative burdens that may result from revising the values under **Alternatives 2 and 3** would take the form of development and dissemination of outreach and education materials for fishery participants and law enforcement. Overall, because sector allocations are currently in place for Atlantic king mackerel, the impacts of the proposed action to modify those allocations on the administrative environment are expected to be neutral.

## 4.3 Action 3. Revise the recreational annual catch target for Atlantic migratory group king mackerel.

### 4.3.1 Biological Effects

#### *Expected effects to Atlantic king mackerel*

The current recreational annual catch target (ACT) of 7,400,000 lbs is derived from the current ABC (as established in Amendment 18 to the CMP FMP, 2011) and is based on the ACT equation where the recreational ACT is equal to the recreational ACL\*(1-Percent Standard Error (PSE)) or recreational ACL\*0.5, whichever is greater (Table 4.3.1.1), using the 5-year average PSE. Recreational ACTs for Atlantic king mackerel are codified and utilized in the post-season recreational AM.

Revising Atlantic king mackerel recreational ACTs as proposed under reach alternative in Action 3 would not be expected to result in negative biological impacts to the stock since overall catch would be constrained to the sector ACL, and post-season AMs would correct for overages if they occur (if the stock is in an overfished condition), and prevent overfishing.

#### **Alternatives**

- 1. (No Action). Revise the recreational annual catch target to reflect the updated recreational annual catch limit.**
2. Revise the recreational annual catch target for Atlantic king mackerel to reflect the updated recreational annual catch limit. ACT=90% sector ACL.
3. Revise the recreational annual catch target for Atlantic king mackerel to reflect the updated recreational annual catch limit. ACT=85% sector ACL.

\*See Chapter 2 for detailed language of alternatives. Preferred indicated in bold.

#### **Recreational ACTs**

An annual catch target (ACT) can be set below the ACL to account for management uncertainty and provide greater assurance overfishing does not occur (see Section 1.3).

#### The current recreational ACT and AMs for Atlantic king mackerel:

- 7.4 million lbs for the 2019-2020 fishing year and subsequent fishing years
- If the recreational landings exceed the recreational ACL and the sum of the commercial and recreational landings, exceeds the stock ACL the Regional Administrator (RA) may reduce the bag limit for the following fishing year by the amount necessary to ensure recreational landings may achieve the recreational ACT, but do not exceed the recreational ACL. Additionally, if the sum of the commercial and recreational landings exceeds the stock ACL and Atlantic king mackerel are overfished, the RA may reduce the recreational ACL and ACT for that following year by the amount of any recreational sector overage in the prior fishing year.

**Table 4.3.1.1.** Percent Standard Errors (PSEs) for Atlantic king mackerel from weight estimates for all modes. The PSEs use recreational data calibrated to MRIP FES.

Fishing Year	2015/2016	2016/2017	2017/2018	2018/2019	2019/2020	3-Year Average	5-Year Average
PSE Value	15.0	15.1	12.6	12.8	12.9	12.8	13.7

**Table 4.3.1.2.** Proposed recreational ACTs (lbs) for Atlantic king mackerel.

Fishing Year	Recreational ACL	Recreational ACT		
		Preferred Alternative 1 (No Action) <sup>1</sup>	Alternative 2	Alternative 3
2022/23	19,599,640	<b>16,914,489</b>	17,639,676	16,659,694
2023/24	16,970,420	<b>14,645,472</b>	15,273,378	14,424,857
2024/25	15,177,770	<b>13,098,416</b>	13,659,993	12,901,105
2025/26	13,922,915	<b>12,015,476</b>	12,530,624	11,834,478
2026/27+	13,026,590	<b>11,241,947</b>	11,723,931	11,072,602

<sup>1</sup>The five-year average PSE for the recreational data was 0.137. The resulting recreational ACT would be equal to the recreational ACL multiplied by (1-0.137), or 0.863, setting the recreational ACT at 86.3% of the recreational ACL.

Note: The revised total ACTs reflect **Preferred Alternative 3 in Action 1** and **Preferred Alternative 1 (No Action) in Action 2** in Amendment 34 to the CMP FMP and Atlantic Region.

The SEDAR 38 Update (2020) indicates that the Atlantic king mackerel ACLs and recreational ACTs can be increased without having negative effects on the sustainability of the stock. **Preferred Alternative 1 (No Action)** would update the recreational ACT based on the revised recreational ACL and recreational PSEs (Table 4.3.1.1 and Table 4.3.1.2). However, **Alternatives 2 and 3** would have a greater long-term positive biological effect to the stock than **Preferred Alternative 1 (No Action)** because they would create larger buffers between the recreational ACT and sector ACL (**Table 4.3.1.2**). In general, biological benefits to the stock would be expected to be greater for the alternative that provides the most timely and realistic trigger for the AM. Overall, the biological benefits to the stock would be expected to be greatest with **Alternative 3** since the ACL is the lowest, followed by **Preferred Alternative 1 (No Action)**, and **Alternative 2**.

## 4.3.2 Economic Effects

The purpose of ACTs is to help prevent a sector from exceeding its ACL due to management uncertainty. Exceeding an ACL would have direct negative economic effects on all sectors potentially due to a reduced stock size. In the case of Atlantic king mackerel, the ACT is part of the recreational post-season AM. If recreational landings exceed the ACL, and the sum of the commercial and recreational landings exceed the stock ACL, a reduced bag limit would be implemented the following year by the amount necessary to ensure the recreational landings may achieve the recreational ACT, but do not exceed the recreational ACL. However, harvest is not limited to the ACT, thus there are no direct economic effects but there may be indirect effects if a reduced bag limit that is geared towards achieving the ACT rather than the ACL results in additional decreased harvest of king mackerel. The more that harvest is restricted, the greater the loss in consumer surplus (CS) received from such harvest and thus negative economic effects.

Under this notion, the lower the ACT, the greater the potential for short-term negative economic effects. **Alternative 3** would have the greatest potential for short-term negative economic effects followed by, **Preferred Alternative 1 (No Action)**, and **Alternative 2**.

### **4.3.3 Social Effects**

If tied to management action such as AMs, ACTs would result in negative social impacts in the short-term because these would be linked to reduced economic benefits and reduced fishing opportunities. Reductions in harvest thresholds may have potential negative social effects, which can range from changes in fishing behavior to other social disruptions that go beyond impacts to the fishery and may extend to the community or region. However, there would be long-term social benefits for fishermen, communities, and the public by preventing overfishing through an ACT for a stock that has potential to exceed the ACL. Those benefits would include more fishing opportunities and increased income, which should benefit the coastal economy and contribute to community resilience for those involved in these fisheries. **Alternative 4** would have the greatest potential for short-term negative social effects followed by, **Preferred Alternative 1 (No Action)**, and **Alternative 2**.

### **4.3.4 Administrative Effects**

Modifying the recreational ACTs for Atlantic king mackerel is not likely to have direct impacts on the administrative environment unless harvest triggers AMs. A recreational ACT is already in place for Atlantic king mackerel and therefore, negative administrative impacts of this action are likely to be minimal. **Preferred Alternative 1 (No Action)**, **Alternative 2**, and **Alternative 3** would not result in significant administrative cost or time burdens other than notifying fishery participants of the change in the recreational ACTs and continued monitoring of the recreational ACTs, sector ACLs, and stock status. The burden on law enforcement would not change under any of the alternatives since changes to the recreational ACT would not alter the manner in which law enforcement efforts are presently carried out, and quota closures are currently enforced.



## 4.4 Action 4. Increase the recreational bag and possession limit for Atlantic migratory group king mackerel in the exclusive economic zone off the east coast of Florida.

### 4.4.1 Biological Effects

#### *Expected effects to Atlantic king mackerel*

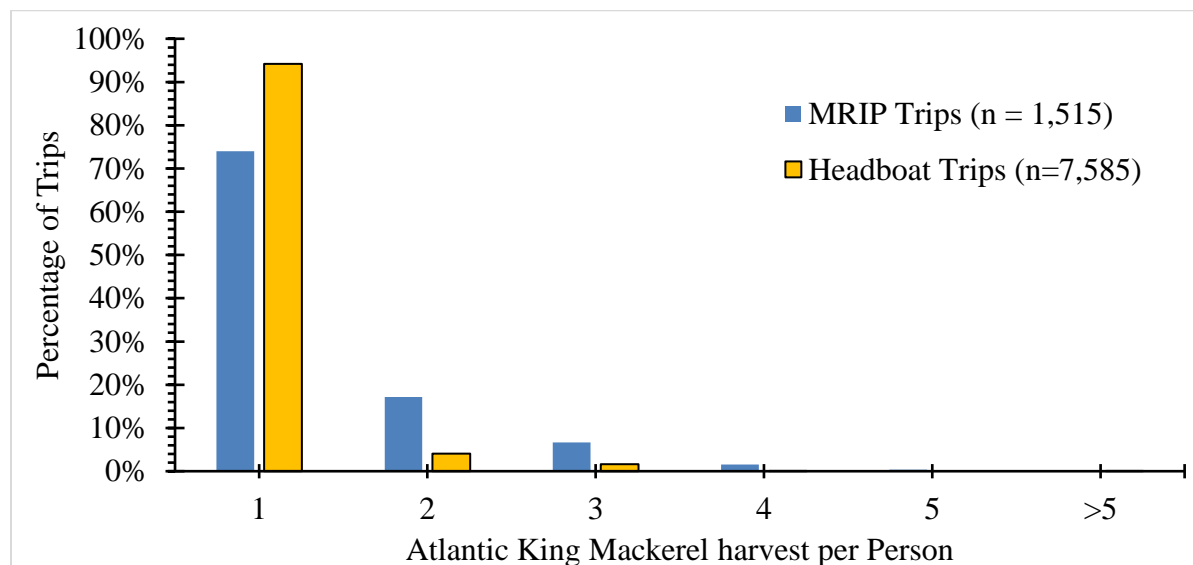
The current recreational daily bag limit for Atlantic king mackerel is two fish per person in both federal and state waters off the east coast of Florida. The rest of the Gulf, South Atlantic, and Mid-Atlantic regions have a bag limit of three fish per person. Increasing the bag limit in federal waters off the east coast of Florida as proposed under **Preferred Alternative 2** would allow fishermen throughout the management jurisdiction the same opportunity to harvest the same amount of Atlantic king mackerel. Negative biological effects to the stock could occur if more fish are allowed to be retained; however, increasing the Atlantic king mackerel bag limit from two to three fish per person under **Preferred Alternative 2** is expected to have minor effects on overall harvest since the majority of anglers are currently only retaining one fish per person (Figures 4.4.1 and 4.4.2). Under **Preferred Alternative 2**, recreational landings could increase between 4 and 19% (private recreational and charter)/1-3% (headboat), with a total percent increase of recreational landings between 3-14% (Tables 4.4.1 and 4.4.2). Additionally, in terms of the risk of overfishing, harvest is limited by the ACL, and post-season AMs are in place to address overages, so biological effects from both alternatives are expected to be neutral.

#### **Alternatives**

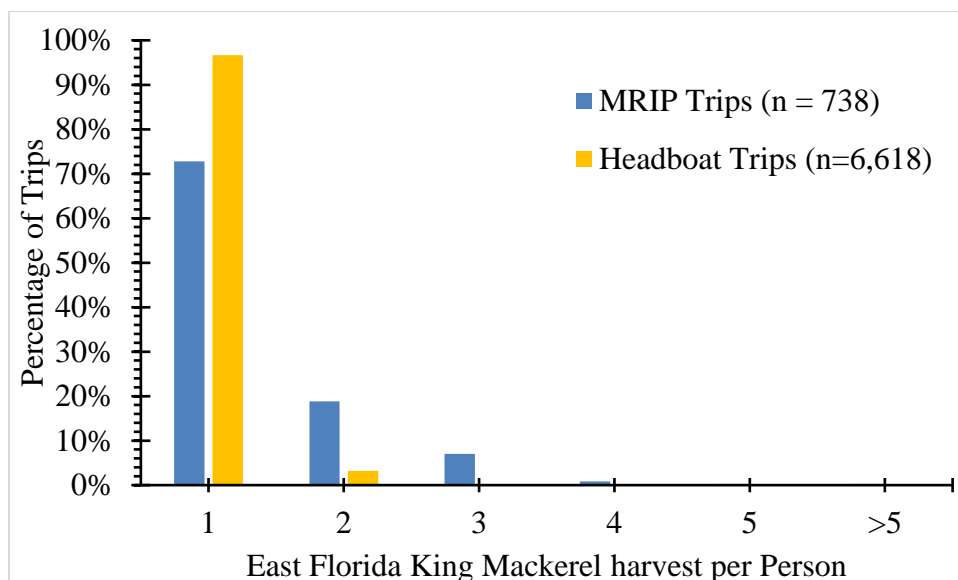
1. (No Action). The daily bag limit for Atlantic migratory group king mackerel in the exclusive economic zone off Florida is two fish per person. The daily bag limit specified by Florida for its waters is two fish per person.

**2. Increase the recreational bag limit for Atlantic king mackerel to three fish per person in the exclusive economic zone off Florida.**

\*See Chapter 2 for detailed language of alternatives. Preferred indicated in bold.



**Figure 4.4.1.** Distribution of Atlantic king mackerel harvested per angler for private, charter, and headboat components of the recreational sector) from 2017 through 2019. MRIP Trips include private recreational and charter.



**Figure 4.4.2.** Distribution of East Florida king mackerel per person from the two recreational datasets (MRIP and Headboat). The data used are from 2017 through 2019. MRIP trips include private recreational and charter.

**Table 4.4.1.** Calculated percent increase in east Florida king mackerel recreational landings from increasing the bag limit from 2 to 3 Atlantic king mackerel per person. MRIP includes private recreational and charter.

Bag Limit	MRIP	Headboat
Impact on East Florida Recreational Landings		
<b>Method 1</b>		
2 to 3 Fish	19%	3%
<b>Method 2</b>		
2 to 3 Fish	4%	<1%

Note: Percent increase in landings was calculated with two different methods (Method 1 and Method 2 (see **Appendix E** for detail).

**Table 4.4.2.** Percent increase in Atlantic king mackerel recreational landings generated from data for the years of 2017 to 2019.

Bag Limit	Method 1	Method 2
2 to 3 Fish in East Florida	14%	3%

Refer to **Appendix E** for detailed analytical methodology for proposed bag limit alternatives for Atlantic king mackerel.

### *Expected Effects to Bycatch and Discards*

When compared to **Alternative 1 (No Action)**, increasing the bag limit of Atlantic king mackerel under **Preferred Alternative 2** could result in fewer discards since less fish would

need to be returned to the water. However, since the majority of anglers are currently only retaining one fish per person (Figures 4.4.1 and 4.4.2), increasing the bag limit under **Preferred Alternative 2** would be expected to have minimal effects on discards.

#### 4.4.2 Economic Effects

Generally, angler satisfaction increases with the number of fish that can be harvested on a trip. As such, an increase in the bag limit would lead to higher angler satisfaction from a recreational trip, likely resulting in higher overall net economic benefits and **Preferred Alternative 2** would be expected to result in higher net economic benefits when compared to **Alternative 1 (No Action)**. The estimated increase in net economic benefits from **Preferred Alternative 2** is \$1,363,815 (Table 4.4.2.1; 2019\$).

Assumptions used to calculate this estimated change in net economic benefits includes the five-year average number of directed angler trips for king mackerel occurring off east Florida from 2015-2019. Directed angler trips include trips that either targeted (primary or secondary target) or harvested king mackerel (MRIP Query, accessed October 18, 2021). Angler trips only releasing king mackerel were not included in this analysis, as these the species was presumably incidentally caught and not kept, therefore a change in the bag limit would not affect this type of trip. It is assumed that recreational effort would not notably change with an increase in the bag limit. A mean marginal willingness to pay (WTP) estimate of \$1.17 for private boat trips and \$2.34 for charter trips due to changing from a 2 fish bag limit to a 3 fish bag limit for king mackerel was applied as a measure of consumer surplus to the appropriate respective effort estimate to determine the total estimated change in net economic benefits (Liese and Carter, 2017)(2019\$). The same WTP estimate of \$1.17 was applied to both private/rental boat and shore mode trips. Finally, it was also assumed that the considered changes in the recreational retention limit would only affect catch per angler trip and not the overall number of trips. This included no change to for-hire fishing activity and thus no change in economic effects for the for-hire component of the recreational sector. As such, there are no estimated changes in PS provided for the recreational sector.

**Table 4.4.2.1.** Estimated change in net economic benefits from **Preferred Alternative 2** compared to **Alternative 1 (No Action)** in **Action 4**.

	<b>Charter</b>	<b>Private<sup>1</sup></b>	<b>Total</b>
<b>Average number of directed trips<sup>2</sup></b>	61,358	1,042,937	1,104,295
<b>Change in net economic benefits (2019\$)<sup>3</sup></b>	\$143,579	\$1,220,236	\$1,363,815

<sup>1</sup>Private trips include both private/rental boat and shore modes.

<sup>2</sup>Represents the five-year average number of directed angler trips for king mackerel occurring off of east Florida from 2015-2019. Directed angler trips include trips that either targeted (primary or secondary) or harvested king mackerel (MRIP Query, accessed October 18, 2021).

<sup>3</sup>Based on a mean marginal willingness to pay (WTP) estimates of \$1.17 for private boat trips and \$2.34 for charter trips for changing from a 2 fish bag limit to a 3 fish bag limit for king mackerel (Liese and Carter, 2017; 2019\$). The same WTP estimate of \$1.17 was applied to both private/rental boat and shore mode trips. These estimates are derived from a mean WTP of \$11 for a bag limit of 2 king mackerel and \$13 for a bag limit of 3 king mackerel onboard charter trips and \$12 for a bag limit of 2 king mackerel and \$13 for a bag limit of 3 king mackerel onboard private trips as reported in Liese and Carter (2017) in 2009\$.

### 4.4.3 Social Effects

The social effects of modifying the recreational harvest limits would be associated with the biological costs of each alternative, as well as the effects on current recreational fishing opportunities. In general, benefits to the recreational sector would result from harvest limits that do not result in restricted access to Atlantic king mackerel (i.e., because an AM is triggered) but still maintain harvest limits large enough to have minimal effect on recreational trip satisfaction. The social effects of the potential increase in harvest limits would depend on the trade-off between restrictive measures that may affect trip satisfaction or triggering the AMs because harvest exceeds the ACL in a short period of time.

Increasing the recreational bag limit under **Preferred Alternative 2** would create consistency in the recreational bag limit in federal waters throughout the Atlantic king mackerel management range when compared to **Alternative 1 (No Action)**. Consistency in regulations throughout federal waters would be expected to reduce confusion among fishermen and aid in compliance. Alternatively, it would create inconsistency between the bag limit in the Florida east coast state waters and the federal waters off the east coast of Florida.

### 4.4.4 Administrative Effects

Since there is a recreational bag limit already in place and being monitored, both alternatives under Action 4 are only expected to have minor effects to the administrative environment. Minor administrative burdens from increasing the recreational bag limit for Atlantic king mackerel to three fish per person under **Preferred Alternative 2** would be related to distributing information, education, and enforcement. However, since the rest of the Gulf, South Atlantic, and Mid-Atlantic regions have a bag limit of three fish per person, increasing the bag limit in federal waters off the east coast of Florida to make regulations consistent in the Atlantic as proposed under **Preferred Alternative 2** would reduce the burden on law enforcement. Therefore, overall effects incurred from **Preferred Alternative 2**, when compared with **Alternative 1 (No Action)**, are expected to be beneficial to the public and to enforcement.

## 4.5 Action 5. Modify the recreational requirement for Atlantic migratory group king mackerel and Spanish mackerel to be landed with heads and fins intact.

### 4.5.1 Biological Effects

#### *Expected effects to Atlantic king mackerel, Bycatch and Discards*

Currently, commercial fishermen are allowed to possess cut or damaged fish, generally caused by shark depredation, that meet minimum size limits; however, the recreational sector may not. Under **Preferred Alternative 2** and its sub-alternatives, cut or damaged Atlantic king mackerel and Atlantic Spanish mackerel caught under the recreational bag limit that comply with the minimum size limits, may be possessed, and offloaded ashore. Allowing possession of damaged Atlantic king mackerel or Atlantic Spanish mackerel under **Preferred Sub-alternatives 2a and 2b**, respectively, could be expected to minimally increase harvest, while reducing the number of discarded fish.

However, since fish in such a state are expected to be dead discards, the biological effects to the stock from discards and fish removal are neutral. Additionally, in terms of the risk of overfishing, biological effects of **Preferred Alternative 2** and its sub-alternatives would be neutral compared to **Alternative 1 (No Action)** since harvest is limited to bag limits and by the sector ACL, and AMs are in place to reduce the chances of any overages.

### 4.5.2 Economic Effects

Allowing possession of damaged Atlantic king mackerel or Spanish mackerel would increase harvest, which would provide positive direct economic effects for the recreational sector by allowing the possession of fish that would have previously been discarded. Additionally, since fish in such a state do not survive release, there are no net effects for the stock. In general, an increase in overall harvest would increase net economic benefits, as measured in CS, incurred from such harvest. Under this notion, the highest economic benefits would occur under **Preferred Sub-alternative 2a** and **Preferred Sub-alternative 2b**, followed by **Alternative 1 (No Action)**. Due to data constraints, the increase in harvest resulting from allowing the possession of shark-damaged king mackerel (**Preferred Sub-alternative 2a**) and Spanish mackerel (**Preferred Sub-alternative 2b**) cannot be adequately projected, as such quantitative estimates of the economic benefits from this action are not possible.

### 4.5.3 Social Effects

Commercial and recreational fishermen have reported increasing interactions with sharks or barracudas resulting in king and Spanish mackerel having their tails bitten off by before they can be landed. Allowing possession of damaged Atlantic king mackerel or Spanish mackerel would

#### **Alternatives**

1. (No Action). Cut-off (damaged) Atlantic migratory group king mackerel or Spanish mackerel caught under the recreational bag limit may not be possessed.

**2. Cut-off (damaged) fish caught under the recreational bag limit that comply with the minimum size limits, may be possessed, and offloaded ashore.**

**2a. Atlantic migratory group king mackerel**

**2b. Atlantic migratory group Spanish mackerel**

\*See Chapter 2 for detailed language of alternatives. Preferred indicated in bold.

allow cut-fish not to be wasted which would provide positive social effects for the recreational sector. The commercial sector is already allowed to possess damaged king and Spanish mackerel and consistency in regulations between both sectors would be expected to reduce confusion among fishermen and aid in compliance. Additionally, **Preferred Sub-alternative 2a** and **Preferred Sub-alternative 2b** directly addresses stakeholder concerns regarding damaged fish and may improve stakeholder perceptions of the management process.

#### **4.5.4 Administrative Effects**

Effects associated with removing the requirement under **Preferred Alternative 2** and its sub-alternatives, would be incurred by rulemaking, outreach, education, and enforcement. However, since there is a regulation currently in place for Atlantic king mackerel and Atlantic Spanish mackerel that limits possession of damaged fish for the recreational sector, administrative impacts on National Marine Fisheries Service from removing that regulation are expected to be minimal. Additionally, the effects incurred from **Preferred Alternative 2** and its sub-alternatives, when compared with **Alternative 1 (No Action)**, are expected to be beneficial to the public and to enforcement.

# Chapter 5. Council's Choice for the Preferred Alternatives

## 5.1 Action 1. Revise the acceptable biological catch, total annual catch limit, and annual optimum yield for Atlantic migratory group king mackerel.

### 5.1.1 Mackerel Cobia Advisory Panel Comments and Recommendations.

*April 2021 Meeting*

- Advisory Panel (AP) members expressed concern about use of the new Marine Recreational Information Program (MRIP) Fishing Effort Survey (FES) numbers in the stock assessment, and whether the significant increase in acceptable biological catch (ABC) was warranted.
  - It was noted that discussions related to the use of new MRIP FES are taking place throughout managed fisheries in the United States.
  - Catch is going to increase under the new FES numbers and that should be considered when discussing whether or not a buffer between ABC and annual catch limit (ACL) is appropriate.
- Some AP members felt that a 10% buffer (Alternative 4) was appropriate, while others felt that a 5% buffer (Alternative 3) was more appropriate.
  - There is enough room for a 10% buffer given the large increase in ABC and given uncertainty with MRIP numbers it would be wise to be precautions.
    - While commercial landings are a census, recreational landings are not, and they come in two-months waves and are often delayed.
    - From a statistical standpoint, a 10% buffer is not substantial.
  - A 5% buffer would be ideal because the commercial fishermen have been heavily restricted for many years. There are also fish that are not harvested due to hurricanes and bad weather. The commercial industry could catch more fish if allowed.
    - A 5% buffer would still not cause a closure even if recreational landings increase due to the change in bag limit proposed in the amendment.

#### **Alternatives**

1. (No Action). The total annual catch limit and annual optimum yield for Atlantic king mackerel is equal to the current acceptable biological catch level (12.7mp).

2. Revise the acceptable biological catch, total annual catch limit and annual optimum yield for Atlantic king mackerel. OY=ACL=ABC.

**3. Revise the acceptable biological catch, total annual catch limit and annual optimum yield for Atlantic king mackerel. OY=ACL=95%ABC.**

4. Revise the acceptable biological catch, total annual catch limit and annual optimum yield for Atlantic king mackerel. OY=ACL=90%ABC.

5. Revise the acceptable biological catch, total annual catch limit and annual optimum yield for Atlantic king mackerel. OY=ACL=21,800,000 pounds.

\*See Chapter 2 for detailed language of alternatives. Preferred indicated in bold.

- Commercial fishermen feel like they're seeing a reoccurring theme with the new FES numbers. The new numbers result in a higher ABC/ACL and the entire increase is given to the recreational sector despite how heavily restricted the commercial sector has been over the years.

#### *November 2020 Meeting*

- Given the increase in catch levels, the South Atlantic Fishery Management Council (South Atlantic Council) should consider accommodating a buffer between the ABC and ACL.
  - If the current catch is not reaching/exceeding the proposed ABC/ACL it makes sense to be cautious. Especially given that data for current and possibly future fishing years may be compromised due to the pandemic.
  - Due to MRIP data coming in waves or being otherwise delayed, a buffer instead of an annual catch target (ACT) would better account for management uncertainty.
  - Increased landings of king mackerel throughout the northern zone (North Carolina/South Carolina line to the New York/Connecticut/Rhode Island line) and into New England is a big source of management uncertainty warranting a buffer.
    - Especially recreationally, intercepts may not occur as often up north resulting in unreliable numbers.
    - Factoring climate change into management is especially important because we do not yet know if king mackerel are shifting northward or if their range is expanding.
- When looking at a buffer, it is important to make sure that commercial and recreational sectors can remain open year-round.
- An alternative perspective was provided, stating the if landings are increasing in the northern zone a buffer should not be set because it is important to ensure all quota remains available to account for changes in landings.

### **5.1.2 Public Comments and Recommendations**

- **Support for Action 1: Preferred Alternative 3: ACL = 95% ABC**

### **5.1.3 South Atlantic and Gulf Council's Choice for Preferred Alternative**

The South Atlantic Council and Gulf of Mexico Fishery Management Council (Gulf Council) selected **Preferred Alternative 3**, which places a smaller buffer in between the ABC and ACL than the other alternatives considered, based on a recommendation from the Mackerel Cobia AP to be cautious due to uncertainty with the new MRIP FES numbers. The Councils felt that a buffer was appropriate for this stock because of the substantial increase in the recommended ABC from the South Atlantic Council's Scientific and Statistical Committee and analysis that showed it was unlikely for the proposed ACL to be met, resulting in a closure to either king mackerel sector.

At their March and April 2022 meetings, the South Atlantic Council and Gulf Council, respectively, concluded that **Preferred Alternative 3** best met the purpose and need. The



preferred alternative also best meets the objectives of the CMP FMP, as amended, while complying with the requirements of the Magnuson-Stevens Act and other applicable law.

## 5.2 Action 2. Revise sector allocations and sector annual catch limits for Atlantic migratory group king mackerel.

### 5.2.1 Mackerel Cobia Advisory Panel Comments and Recommendations.

*April 2021*

- Even though percentage allocation between the sectors may change, the poundage for the commercial sector would increase.
- Need to have a bigger discussion about what the recreational sector would like their fishery to look like given some of the unharvested quota (what regulations need to change and what does the recreational sector value).
- Due to the change in MRIP numbers to FES currency, the no action would essentially result in reallocation to the commercial sector and quite a windfall.
  - Everyone knows to the pound what the commercial sector is landing. Isn't a windfall, it is a reward for putting in the work (restrictions) for rebuilding the stock.
- Commercial AP members expressed concerned about losing percentage allocation. Specifically, they were concerned that that if the ABC/ACL is lowered in the future then commercial fishermen would be pushed out of business due to the low percentage.
  - There is concern that once a percentage is gone from a sector's allocation; it is gone forever.
  - A low percentage could be especially detrimental as other things change in the commercial sector, such as participation.
- South Atlantic and Gulf Council members need to look at the entire history of the commercial and recreational coastal migratory pelagic (CMP) fishery. There is no reason the entire increase should go to the recreational sector and not the commercial sector and fish-eating public.
  - For example, in the Atlantic Spanish mackerel portion of the CMP fishery, the commercial sector has regularly been closed early due to meeting the ACL, while the recreational sector has not touched the extra poundage they were allocated.
- The commercial sector has been restricted and shut down, but now the new MRIP data are showing that the stock was much larger than originally believed. The Councils should reallocate to the commercial sector to make up for all the years they were heavily restricted. There is room for the king mackerel portion of the CMP fishery to expand and they should be afforded some quota to see what they can accomplish.

#### ***Alternatives***

**1 (No Action).** Retain the current recreational sector and commercial sector allocations as **62.9% and 37.1%, respectively, of the revised total annual catch limit for Atlantic king mackerel.**

2. Allocate 22.7% of the total annual catch limit to the commercial sector and 77.3% of the total annual catch limit to the recreational sector.

3. Allocate 31.1% of the total annual catch limit to the commercial sector and 68.9% of the total annual catch limit to the recreational sector.

\*See Chapter 2 for detailed language of alternatives. Preferred indicated in bold.

- There should not be any reallocation until the private recreational fishermen are reporting their landings in real time like the commercial sector.
- If the recreational sector closes, they can still catch and release king mackerel. It is not the same for the commercial sector, who rely on access to fish to support their family and pay their bills. Commercial fishermen need a guaranteed poundage so that they can continue to go fishing.
  - The South Atlantic Council should guarantee that the commercial sector would never be below their 20-year average (poundage), then reallocation can be discussed. Otherwise, too much is unknown, and it is challenging to make long-term business decisions.
- It is important for the AP and the Councils to make recommendations and decisions based on the hard numbers available. The commercial sector numbers are reliable, and the recreational sector (MRIP) numbers may or may not be high or low. The goal should be to come up with real solutions for both sectors as opposed to playing politics.
- The Councils should consider allowing transfer of quota between the sectors for the next few years while we see how the MRIP numbers are going to play out.
  - A soft quota would be better than a hard quota that is codified.
- The Councils should consider creating a common pool allocation wherein whichever sector needs additional quota could pull out of the pool.
  - Due to how recreational landings come in, a common pool allocation may end up serving as more of a payback for the recreational sector.

**AP MOTION 1: RECOMMEND THE COUNCIL SELECT ALTERNATIVE 1 (NO ACTION) AS PREFERRED.**

**MOTION APPROVED (6 IN FAVOR, 1 OPPOSED, 1 ABSTENTION, 10 NOT IN ATTENDANCE)**

*November 2020*

- Overall, king mackerel has been functioning well with the current sector allocations, however regional allocations may need to be addressed in the future with changes in landing distributions due to climate change.
- The current allocations are historical and accurately represent the historical landings of king mackerel in the CMP fishery. Especially with the increase in proposed catch levels, there is no need to alter sector allocations.
- The priority should be to get accurate recreational landings and discard estimates.
- Commercial king mackerel federal permits are limited access, helping to control effort in the fishery. It was noted that the price for king mackerel permits has increased in recent years (~\$15,000 per permit).
- It was noted that while there is no need to address regional allocations of king mackerel at this time, there needs to be a system in place to trigger consideration of reallocations related to increases in effort or if a sector/area is reaching its quota early.

### 5.2.2 Public Comments and Recommendations

- **Support for Action 2, Preferred Alternative 1 (No Action):** Retain the current sector allocation percentages.

### 5.2.3 South Atlantic and Gulf Council's Choice for Preferred Alternative

The South Atlantic and Gulf Councils selected **Preferred Alternative 1 (No Action)** because Atlantic king mackerel is a management success story, and it would be beneficial to preserve the historic makeup of the king mackerel portion of the CMP fishery. Additionally, in recent years the commercial sector has come close to meeting its ACL, while the recreational sector as remained well below their ACL. Maintaining the allocation percentages set in the 1980s would shift poundage toward the commercial sector. However, even with maintaining current percentage allocations neither sector is anticipated to experience a closure due to their respective ACL being met. In accordance with National Standard 4, the Councils felt **Preferred Alternative 1** would be fair and equitable to fishermen in both the recreational and commercial sectors because it would allow both sectors room to expand their harvest without risking either sector meeting or exceeding their sector annual catch limit.

At their March and April 2022 meetings, the South Atlantic Council and Gulf Council, respectively, concluded that **Preferred Alternative 1 (No Action)** best met the purpose and need. The preferred alternative also best meets the objectives of the CMP FMP, as amended, while complying with the requirements of the Magnuson-Stevens Act and other applicable law.

### 5.3 Action 3. Revise the recreational annual catch target for Atlantic migratory group king mackerel.

#### 5.3.1 Public Comments and Recommendations

- **Support for Action 3, Preferred Alternative 2:**  
Revise the ACT to reflect the updated ACL/ABC.

#### 5.3.1 South Atlantic and Gulf Council's Choice for Preferred Alternative

The South Atlantic and Gulf Councils selected **Preferred Alternative 1 (No Action)** because it maintains the current method for setting the ACT and updates based on the new catch levels selected in previous actions.

At their March and April 2022 meetings, the South Atlantic Council and Gulf Council, respectively, concluded that **Preferred Alternative 1 (No Action)** best met the purpose and need. The preferred alternative also best meets the objectives of the CMP FMP, as amended, while complying with the requirements of the Magnuson-Stevens Act and other applicable law.

#### *Alternatives*

**1. (No Action). Revise the recreational annual catch target to reflect the updated recreational annual catch limit.**

2. Revise the recreational annual catch target for Atlantic king mackerel to reflect the updated recreational annual catch limit. ACT=90% sector ACL.

3. Revise the recreational annual catch target for Atlantic king mackerel to reflect the updated recreational annual catch limit. ACT=85% sector ACL.

\*See Chapter 2 for detailed language of alternatives. Preferred indicated in bold.

## 5.4 Action 4. Increase the recreational bag and possession limit for Atlantic migratory group king mackerel in the exclusive economic zone off the east coast of Florida.

### 5.4.1 Mackerel Cobia Advisory Panel Comments and Recommendations.

*April 2021*

- It would be prudent for the recreational sector to have the choice of 3-fish per person because everyone else in the management area has the option.
- Consistency in regulations would make things simpler.
- The AP members representing the commercial sector indicated that they support the recreational representatives view on this issue.
- It was noted that while not a lot of the AP representing the recreational sector was in attendance, this has been discussed at previous meetings.

*November 2020*

- The recreational bag limit off the east coast of Florida is two fish per person, while the rest of the Gulf of Mexico, South Atlantic, and Mid-Atlantic region has a bag limit of three fish per person. Raising the bag limit in federal waters off the east coast of Florida would allow all fishermen the same opportunity to harvest king mackerel.

### 5.4.2 Public Comments and Recommendations

- **Support for Action 4, Alternative 1 (No Action):** Maintain the 2-fish per person recreational bag limit in federal waters off the east coast of Florida.
  - King mackerel are not as desirable as other Florida species, recreational fishermen do not need to increase the bag limit, and the extra poundage should be allocated to the commercial sector.
  - There is an unknown amount of recreational fishing occurring between Miami Dade and Monroe County.
- **Support for Action 4, Alternative 2:** Increase the recreational bag limit in federal waters off the east coast of Florida to 3-fish per person.
  - Private recreational anglers are not making multiple trips a day to circumvent the 2-fish per person bag limit and should be allowed 3-fish per person.
  - Increasing the bag limit would create consistency with the rest of the king mackerel management area.

#### ***Alternatives***

1. (No Action). The daily bag limit for Atlantic migratory group king mackerel in the exclusive economic zone off Florida is two fish per person. The daily bag limit specified by Florida for its waters is two fish per person.

**2. Increase the recreational bag limit for Atlantic king mackerel to three fish per person in the exclusive economic zone off Florida.**

\*See Chapter 2 for detailed language of alternatives. Preferred indicated in bold.

### **5.4.3 South Atlantic and Gulf Council's Choice for Preferred Alternative**

The South Atlantic and Gulf Councils selected **Preferred Alternative 2** to create consistency in the recreational bag limit in federal waters and to provide the same opportunity for harvest throughout the entirety of the king mackerel management area. Additionally, the recreational sector has not been reaching their ACL and a higher bag limit is anticipated to help increase harvest.

At their March and April 2022 meetings, the South Atlantic Council and Gulf Council, respectively, concluded that **Preferred Alternative 2** best met the purpose and need. The preferred alternative also best meets the objectives of the CMP FMP, as amended, while complying with the requirements of the Magnuson-Stevens Act and other applicable law.

## 5.5 Action 5. Modify the recreational requirement for Atlantic migratory group king mackerel and Spanish mackerel to be landed with heads and fins intact.

### 5.5.1 Mackerel Cobia Advisory Panel Comments and Recommendations.

*April 2021*

- This action just makes perfect sense. There is a big issue in North Carolina and Florida with sharks and barracuda. Fishermen regularly must throw back fish that meet minimum size limits because they have been damaged. This regulation should have been in place long ago.
- Some fishermen are already keeping damaged fish that meet minimum size limits, there is some confusion among law enforcement.
- Need to make it clear during public comment that this provision applies to Atlantic king and Spanish mackerel and not cobia.

**AP MOTION 3: RECOMMEND THE COUNCIL SELECT ALTERNATIVES 2A AND 2B AS THEIR PREFERRED. APPROVED BY CONSENSUS**

*November 2020*

- Currently, commercial fishermen are allowed to keep cut/damaged fish that meet minimum size limits. Given the issue with damaged king mackerel and the increase in shark depredation, this provision should be considered for the recreational sector.
  - Recommendation to mirror the Highly Migratory Species regulations for shark mutilated fish.

### 5.5.2 Law Enforcement Advisory Panel Comments and Recommendations.

The Law Enforcement AP was asked to comment on Action 5 in CMP Amendment 34, which considers allowing recreational fishermen to possess and offload ashore, cut-off (damaged) Atlantic king and Spanish mackerel that comply with the minimum size limit. Note: this provision already exists for the commercial sector. The AP had the following comments:

- General concern that allowing retention of cut or damaged fish in the recreational sector for king and Spanish mackerel would create the expectation that this practice should be allowed for other species. King mackerel are not difficult to identify, but other species may present identification issues that would make such an allowance problematic.
- AP members offered that officer discretion is generally the norm as to whether a fish that has been depredated is allowed to be retained under current regulations. However,

#### **Alternatives**

1. (No Action). Cut-off (damaged) Atlantic migratory group king mackerel or Spanish mackerel caught under the recreational bag limit may not be possessed.

**2. Cut-off (damaged) fish caught under the recreational bag limit that comply with the minimum size limits, may be possessed, and offloaded ashore.**

**2a. Atlantic migratory group king mackerel**

**2b. Atlantic migratory group Spanish mackerel**

\*See Chapter 2 for detailed language of alternatives. Preferred indicated in bold.



because allowing discretion can get lost over the years, it is best to have a formal regulation.

- Some AP members expressed concern over conflicting federal and state laws that require that enforcement officers use their discretion to enforce and offered that if state laws were to be amended with the intent to still allow officers discretion, then that would alleviate any potential conflict.
- It was noted that the commercial sector is already allowed to retain cut/damaged fish that meet the minimum size limit requirement and there are no enforcement issues with that regulation.
- State agency representatives on the AP offered that there are avenues in place to amend state regulations quickly to match those in federal waters.
- If the proposed change is implemented, education and outreach to the angling public would be important to emphasize that the retained portion of the depredated/damaged fish still must meet the recreational minimum size limit.

**Recommendation: The proposed federal regulation would be in direct conflict with state regulations and each state would have to accommodate with this regulation in state waters.**

### **5.5.3 Public Comments and Recommendations**

- **Support for Action 7, Alternative 2:** allow recreational fishermen to retain cut/damaged king and Spanish mackerel that meet minimum size limits.
  - Shark depredation is a serious issue.
  - Ensure these fish count towards the daily bag limit.
  - Damaged fish should not have to meet minimum size limits.
- Clarification is needed on whether the minimum size limit would be for the damaged fish as is or the portion that remains after the damaged portion is cut off?

### **5.5.4 South Atlantic and Gulf Council's Choice for Preferred Alternative**

The South Atlantic and Gulf Councils selected **Preferred Sub-Alternative 2a** and **Preferred Sub-Alternative 2b** to create consistency between commercial and recreational management measures related to the possession and offloading of cut-off (damaged) fish. Additionally, the selected preferred alternatives address the increase in shark and barracuda depredation reported by stakeholders.

At their March and April 2022 meetings, the South Atlantic Council and Gulf Council, respectively, concluded that **Preferred Sub-Alternative 2a** and **Preferred Sub-Alternative 2b** best met the purpose and need. The preferred alternative also best meets the objectives of the CMP FMP, as amended, while complying with the requirements of the Magnuson-Stevens Act and other applicable law.

# Chapter 6. Cumulative Effects

While this environmental assessment (EA) is being prepared using the 2020 Council on Environmental Quality (CEQ) National Environmental Policy Act (NEPA) Regulations, the cumulative effects discussed in this section meet the two-part standard for “reasonable foreseeability” and “reasonably close causal connection” required by the new definition of effects or impacts. Below is the five-step cumulative effects analysis that identifies criteria that must be considered in an EA.

## 6.1 Affected Area

The immediate impact area would be the federal 200-mile limit of the Atlantic off the coasts of New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, and east Florida to the Miami-Dade/Monroe County boundary, Florida, which is also the South Atlantic Fishery Management Council’s (South Atlantic Council) area of jurisdiction for the Atlantic migratory groups king mackerel (Atlantic king mackerel) and Atlantic Spanish mackerel portion of the coastal migratory pelagics (CMP) fishery. In light of the available information, the extent of the boundaries would depend upon the degree of fish immigration/emigration and larval transport, whichever has the greatest geographical range. The ranges of affected species are described in Volume II of the Fishery Ecosystem Plan.<sup>4</sup> For the proposed actions found in Amendment 34 to the Fishery Management Plan (FMP) for the CMP Resources in the Gulf of Mexico (Gulf) and Atlantic Region (CMP FMP), the cumulative effects analysis includes an analysis of data from 2018 through the present.

## 6.2 Past, Present, and Reasonably Foreseeable Actions Impacting the Affected Area

Fishery managers implemented the first significant regulations pertaining to CMP species in 1982 through the CMP FMP (SAFMC 1982). Listed below are other past, present, and reasonably foreseeable actions occurring in the South Atlantic Region. These actions, when added to the proposed management measures, may result in cumulative effects on the biophysical and socio-economic environment. The complete history of management of the CMP fishery can be found in Appendix I (History of Management).

### *Past Actions*

**Amendment 31** to the CMP FMP, implemented in March 2019, removed Atlantic cobia from the fishery management plan. Atlantic cobia is now managed under the purview of the Atlantic States Marine Fisheries Commission because the majority of Atlantic cobia landings are in state waters.

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<sup>4</sup> In transition to new Habitat and Ecosystem Page.

**Framework Amendment 6** to the CMP FMP, implemented September 2019, updated the Atlantic king mackerel commercial trip limits in the Atlantic Southern Zone during Season 1 (March 1<sup>st</sup> through September 30<sup>th</sup>) of the fishing year.

**King Mackerel Season 2 Temporary Rule**, effective October 2019 through February 2020, revised the Atlantic king mackerel commercial trip limit within the Atlantic southern zone from October 1, 2019, through February 29, 2020.

**Framework Amendment 8** to the CMP FMP, implemented September 2020, increased the commercial Atlantic king mackerel trip limit south of the Flagler/Volusia County, Florida boundary during Season 2 (October 1<sup>st</sup> to the end of February).

**Amendment 27 (For-Hire Electronic Reporting Amendment)** to the CMP FMP, implemented September 2020, establishes new, and revises existing, electronic reporting requirements for federally permitted charter vessels and headboats (for-hire vessels), respectively, in certain Atlantic fisheries.

### ***Present Actions***

**Amendment 32** proposes revisions to Gulf migratory group cobia overfishing limit (OFL), acceptable biological catch (ABC), and the total and sector annual catch limits (ACL), allocations between the Gulf Zone and the Florida East Coast Zone, allocations between the commercial and recreational sectors, and management measures. Additionally, **Amendment 32** proposes revisions to the Framework Procedure for the CMP FMP.

### ***Reasonably Foreseeable Future Actions***

**Amendment 33** to the CMP FMP proposes revisions to the Gulf migratory group king mackerel overfishing limit (OFL), acceptable biological catch (ABC), and the total and sector annual catch limits (ACL), and allocations between the commercial and recreational sectors.

This action (**Amendment 34**) proposes revisions to the Atlantic king mackerel OFL, ABC, and the total and sector ACLs, and allocations between the commercial and recreational sectors, and to revise management measures for Atlantic king mackerel and Atlantic Spanish mackerel.

### ***Expected Impacts from Past, Present, and Future Actions***

The intent of Amendment 34 is to modify management of Atlantic king mackerel and Atlantic Spanish mackerel. Actions include updating the Atlantic king mackerel OFL, ABC and OY, total ACL, sector allocations and sector ACLs, and recreational annual catch targets based on the SEDAR 38 Update assessment (2020). Additionally, Amendment 34 proposes changes to management measures for Atlantic king mackerel and Atlantic Spanish mackerel. Development of Amendment 34 is a response to the most recent stock assessment for Atlantic king mackerel (SEDAR 38 Update 2020). The proposed actions in Amendment 34 are not expected to result in significant cumulative adverse biological or socio-economic effects (see Chapter 4). In recent years, participants in the CMP fishery and associated businesses have experienced some negative economic and social impacts due to changes in ACLs and early closures during the fishing years.

Factors such as distance to fishing grounds, weather, and water temperature affect availability of species to the recreational fleets in different parts of the jurisdiction of the South Atlantic Fishery Management Council (South Atlantic Council) and Gulf of Mexico Fishery Management Council (Gulf Council). The proposed actions could result in increased regulatory discards of Atlantic king mackerel and Atlantic Spanish mackerel. The ecological effects of bycatch mortality are the same as fishing mortality from directed fishing efforts. If not properly managed and accounted for, either form of mortality could potentially reduce stock biomass to an unsustainable level. Release mortality rates for the Atlantic king mackerel are widely variable depending on species and fishing mode ranging from 20-22% for the commercial handline and recreational fisheries to 100% for the commercial gillnet fishery (Appendix G, BPA). Action 5 would allow possession of damaged Atlantic king mackerel or Atlantic Spanish mackerel, which could be expected to minimally increase recreational harvest, while reducing the number of discarded fish. However, since cut or damaged fish are unlikely to survive, the biological effects to the stock would be neutral.

When combined with the impacts of past, present, and future actions affecting the CMP fishery, minor cumulative impacts are likely to accrue. For example, there could be beneficial cumulative effects from the actions in this amendment, in addition to future proposed actions to reduce overfishing of CMP species, require the use of descending devices, and reducing bycatch. Also, there may be cumulative socio-economic effects by promoting access to the fishery which would improve recreational fishing opportunities and benefits to associated businesses and communities; however, the actions in this amendment are not expected to result in significant cumulative adverse biological or socio-economic effects to the CMP fishery when combined with the impacts of past, present, and future actions (see Chapter 4).

### **6.3 Consideration of Climate Change and Other Non-Fishery Related Issues**

#### ***Climate Change***

Global climate changes could have significant effects on Gulf of Mexico and South Atlantic fisheries, though the extent of these effects on the CMP fishery is not known at this time. The Environmental Protection Agency's climate change webpage (<https://www.epa.gov/climate-indicators/marine-species-distribution>), and NOAA's Office of Science and Technology climate webpage (<https://www.fisheries.noaa.gov/topic/climate>), provides background information on climate change, including indicators which measure or anticipate effects on oceans, weather and climate, ecosystems, health and society, and greenhouse gases. The United Nations Intergovernmental Panel on Climate Change's Fifth Assessment Report also provides a compilation of scientific information on climate change (November 2, 2014). Those findings are summarized below.

Ocean acidification, or a decrease in surface ocean pH due to absorption of anthropogenic carbon dioxide emissions, affects the chemistry and temperature of the water. Increased thermal stratification alters ocean circulation patterns, and causes a loss of sea ice, sea level rise, increased wave height and frequency, reduced upwelling, and changes in precipitation and wind patterns. Changes in coastal and marine ecosystems can influence organism metabolism and alter ecological processes such as productivity, species interactions, migration, range and

distribution, larval and juvenile survival, prey availability, and susceptibility to predators. The “center of biomass,” a geographical representation of each species’ weight distribution, is being used to identify the shifting of fish populations. Warming sea temperature trends in the southeast have been documented, and animals must migrate to cooler waters, if possible, if water temperatures exceed survivable ranges (Needham et al. 2012). Harvesting and habitat changes also cause geographic population shifts. Changes in water temperatures may also affect the distribution of native and exotic species, allowing invasive species to establish communities in areas they may not have been able to survive previously. The combination of warmer water and expansion of salt marshes inland with sea-level rise may increase productivity of estuarine-dependent species in the short term. However, in the long term, this increased productivity may be temporary because of loss of fishery habitats due to wetland loss (Kennedy et al. 2002). The numerous changes to the marine ecosystem may cause an increased risk of disease in marine biota. An increase in the occurrence and intensity of toxic algae blooms will negatively influence the productivity of keystone animals, such as corals, and critical coastal ecosystems such as wetlands, estuaries, and coral reefs (Kennedy et al. 2002; IPCC 2014).

Climate change may impact CMP species in the future, but the level of impacts cannot be quantified at this time, nor is the time frame known in which these impacts will occur. In the near term, it is unlikely that the management measures contained in Amendment 34 would compound or exacerbate the ongoing effects of climate change on CMP species.

#### ***Weather Variables***

Hurricane season is from June 1 to November 30, and accounts for 97% of all tropical activity affecting the Atlantic basin. These storms, although unpredictable in their annual occurrence, can devastate areas when they occur. Although these effects may be temporary, those fishing-related businesses whose profitability is marginal may go out of business if a hurricane strikes.

## **6.4 Overall Impacts Expected from Past, Present, and Future Actions**

The proposed management actions are summarized in Chapter 2 of this document. Detailed discussions of the magnitude and significance of the impacts of the alternatives on the human environment appear in Chapter 4 of this document. None of the impacts of the actions in this amendment, in combination with past, present, and future actions have been determined to be significant. Although several other management actions, in addition to this amendment, are expected to affect CMP species, any additive effects, beneficial and adverse, are not expected to result in a significant level of cumulative impacts.

The proposed action would not adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places as these are not in the Atlantic exclusive economic zone (EEZ). This action is not likely to result in direct, indirect, or cumulative effects to unique areas, such as significant scientific, cultural, or historical resources, park land, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas as the proposed action is not expected to substantially increase fishing effort or the spatial and/or temporal distribution of current fishing effort within the South Atlantic region. The Monitor, Gray’s Reef, and Florida Keys National Marine Sanctuaries are within the boundaries of the Atlantic EEZ. The proposed actions are not likely to cause loss or destruction of these national

marine sanctuaries because the actions are not expected to result in appreciable changes to current fishing practices. Additionally, the proposed actions are not likely to change the way in which the CMP fishery is prosecuted; therefore, the action is not expected to result in adverse impacts on health or human safety beyond the status quo.

## **6.5 Monitoring and Mitigation**

The effects of the proposed action are, and will continue to be, monitored through collection of landings data by states, National Marine Fisheries Service, stock assessments and stock assessment updates, life history studies, economic and social analyses, and other scientific observations. The proposed action relates to the harvest of an indigenous species in the Atlantic, and the activity being altered does not itself introduce non-indigenous species and is not reasonably expected to facilitate the spread of such species through depressing the populations of native species. Additionally, it does not propose any activity, such as increased ballast water discharge from foreign vessels, which is associated with the introduction or spread of non-indigenous species.

None of the beneficial or adverse impacts from the proposed management action (as summarized in Chapter 2 of this document) have been determined to be significant. See Chapter 4 for the detailed discussions of the magnitude of the impacts of the preferred alternatives on the human environment. The action in CMP Amendment 34 would not have significant biological, social, or economic effects because even though the action could extend fishing opportunities, accountability measures are also considered, and are in place to ensure overfishing does not occur. Therefore, the cumulative effects of the action proposed in CMP Amendment 34 are not expected to affect bycatch, diversity and ecosystem structure of fish communities, or safety at sea of fishermen targeting CMP species, and other species managed by South Atlantic and Gulf Councils. Based on the cumulative effects analysis presented herein, the proposed action will not have any significant adverse cumulative impacts compared to, or combined with, other past, present, and foreseeable future actions.

## Chapter 7. List of Interdisciplinary Plan Team (IPT) Members

Name	Agency/Division	Title
Christina Wiegand	SAFMC	IPT Lead/Fishery Social Scientist
Mary Vara	SERO/SF	IPT Lead/ Fishery Biologist
Natasha Mendez-Ferrer	GMFMC	Fishery Biologist
Ryan Rindone	GMFMC	Fishery Biologist
Myra Brouwer	SAFMC	Deputy Director for Management
John Hadley	SAFMC	Fishery Economist
Chip Collier	SAFMC	Deputy Director for Science
Denise Johnson	SERO	Industry Economist
Mike Barnette	SERO/PR	Fishery Biologist
Amy Schueller	SEFSC	Fishery Biologist
Juan Agar	SEFSC	Fishery Economist
Mike Jepson	SERO/SF	Social Sciences Branch Chief
Mike Larkin	SERO/LAPP	Biologist
Shepherd Grimes	NOAA GC	General Counsel
Monica Smit-Brunello	NOAA GC	General Counsel
Rick DeVactor	SERO/SF	South Atlantic Branch Chief
Scott Sandorf	SERO	Technical Writer
Matt Walia	NOAA OLE	Law Enforcement
David Dale	SERO/HCD	Fishery Biologist

NMFS = National Marine Fisheries Service, GMFMC = Gulf of Mexico Fishery Management Council, SAFMC = South Atlantic Fishery Management Council, SF = Sustainable Fisheries Division, PR = Protected Resources Division, SERO = Southeast Regional Office, HC = Habitat Conservation Division, GC = General Counsel, OLE= Office of Law Enforcement.

# Chapter 8. Agencies Consulted

## Responsible Agencies

South Atlantic Fishery Management Council (Administrative Lead)  
4055 Faber Place Drive, Suite 201  
N. Charleston, South Carolina 29405  
843-571-4366/ 866-SAFMC-10 (TEL)  
843-769-4520 (FAX)  
www.safmc.net

## **Environmental Assessment:**

NMFS, Southeast Region  
263 13<sup>th</sup> Avenue South  
St. Petersburg, Florida 33701  
727- 824-5301 (TEL)  
727-824-5320 (FAX)

## List of Agencies, Organizations, and Persons Consulted

Gulf of Mexico Fishery Management Council  
Gulf of Mexico Marine Fisheries Commission  
SAFMC Scientific and Statistical Committee  
Florida Fish and Wildlife Conservation Commission  
Georgia Department of Natural Resources  
South Carolina Department of Natural Resources  
North Carolina Division of Marine Fisheries  
Virginia Marine Resources Commission  
Mid-Atlantic Fishery Management Council  
Atlantic States Marine Fisheries Commission  
National Marine Fisheries Service

- Washington Office
- Office of Ecology and Conservation
- Southeast Regional Office
- Southeast Fisheries Science Center



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# Appendix A. Other Applicable Law

## 1.1 Administrative Procedure Act (APA)

All federal rulemaking is governed under the provisions of the APA (5 U.S.C. Subchapter II), which establishes a “notice and comment” procedure to enable public participation in the rulemaking process. Among other things under the APA, the National Marine Fisheries Service (NMFS) is required to publish notification of proposed rules in the *Federal Register* and to solicit, consider and respond to public comment on those rules before they are finalized. The APA also establishes a 30-day wait period from the time a final rule is published until it takes effect, with some exceptions. Amendment 34 to the Fishery Management Plan (FMP) for the Coastal Migratory Pelagic (CMP) Resources in the Gulf of Mexico (Gulf) and Atlantic Region (CMP FMP) (Amendment 34) complies with the provisions of the APA through the South Atlantic Fishery Management Council’s (Council) extensive use of public meetings, requests for comments and consideration of comments. The proposed rule associated with this plan amendment will have a request for public comments, which complies with the APA, and upon publication of the final rule, unless the rule falls within an APA exception, there will be a 30-day wait period before the regulations are effective.

## 1.2 Information Quality Act (IQA)

The IQA (Section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Public Law 106-443)) which took effect October 1, 2002, directed the Office of Management and Budget (OMB) to issue government-wide guidelines that “provide policy and procedural guidelines to federal agencies for ensuring and maximizing the quality, objectivity, utility, and integrity of information disseminated by federal agencies.” OMB directed each federal agency to issue its own guidelines, establish administrative mechanisms allowing affected persons to seek and obtain correction of information that does not comply with OMB guidelines, and report periodically to OMB on the number and nature of complaints. The NOAA Section 515 Information Quality Guidelines require a series of actions for each new information product subject to the IQA. Amendment 34 uses the best scientific information available and made a broad presentation thereof. Therefore, this document is in compliance with the IQA.

## 1.3 Coastal Zone Management Act (CZMA)

Section 307(c)(1) of the federal CZMA of 1972 requires that all federal activities that directly affect the coastal zone be consistent with approved state coastal zone management programs to the maximum extent practicable. While it is the goal of the Council to have management measures that complement those of the states, federal and state administrative procedures vary and regulatory changes are unlikely to be fully instituted at the same time. The Council believes the actions in this plan amendment are consistent to the maximum extent practicable with the Coastal Zone Management Plans of New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, Florida, Georgia, South Carolina, and North Carolina. Pursuant to Section 307 of the CZMA, this determination will be submitted to the responsible state agencies who administer the

approved Coastal Zone Management Programs in the States of New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, Florida, South Carolina, Georgia, and North Carolina.

#### **1.4 Executive Order 12612: Federalism**

Executive Order (E.O.) 12612 requires agencies to be guided by the fundamental federalism principles when formulating and implementing policies that have federalism implications. The purpose of the Order is to guarantee the division of governmental responsibilities between the federal government and the states, as intended by the framers of the Constitution. No federalism issues have been identified relative to the actions proposed in this document and associated regulations. Therefore, preparation of a Federalism assessment under E.O. 12612 is not necessary.

#### **1.5 Executive Order 13089: Coral Reef Protection**

E.O. 13089, signed by President William Clinton on June 11, 1998, recognizes the ecological, social, and economic values provided by the Nation's coral reefs and ensures that federal agencies are protecting these ecosystems. More specifically, the Order requires federal agencies to identify actions that may harm U.S. coral reef ecosystems, to utilize their program and authorities to protect and enhance the conditions of such ecosystems, and to ensure that their actions do not degrade the condition of the coral reef ecosystem.

The alternatives considered in this document are consistent with the directives of E.O. 13089.

#### **1.6 Endangered Species Act (ESA)**

The ESA of 1973 (16 U.S.C. Section 1531 et seq.) requires that federal agencies must ensure actions they authorize, fund, or carry out are not likely to jeopardize the continued existence of threatened or endangered species or the habitat designated as critical to their survival and recovery. The ESA requires NMFS to consult with the appropriate administrative agency (itself for most marine species, and the U.S. Fish and Wildlife Service for all remaining species) when proposing an action that may affect threatened or endangered species or adversely modify critical habitat. Consultations are necessary to determine the potential impacts of the proposed action. They conclude informally when proposed actions may affect but are "not likely to adversely affect" threatened or endangered species or designated critical habitat. Formal consultations, resulting in a biological opinion, are required when proposed actions may affect and are "likely to adversely affect" threatened or endangered species or adversely modify designated critical habitat.

NMFS completed a biological opinion on June 18, 2015 (2015 Opinion), evaluating the impacts of the Coastal Migratory Pelagic (CMP) fishery on ESA-listed species. In the biological opinion, NMFS determined that the proposed continued authorization of the CMP Fishery, is not likely to adversely affect any listed whales (i.e., blue, sei, sperm, fin, humpback, or North Atlantic right whales), Gulf sturgeon, or elkhorn and staghorn corals. NMFS also determined that the CMP Fishery is not likely to adversely affect designated critical habitats for elkhorn and staghorn

corals or loggerhead sea turtles and will have no effect on designated critical habitat for North Atlantic right whale.

According to the 2015 Opinion, green, hawksbill, Kemp's ridley, leatherback, and loggerhead sea turtles, Atlantic sturgeon, and the smalltooth sawfish are all likely to be adversely affected, but not likely to be jeopardized, by the CMP fishery. Green, hawksbill, Kemp's ridley, leatherback, and loggerhead sea turtles' area all highly migratory, travel widely throughout the Gulf of Mexico and South Atlantic, and are known to occur in area of the fishery. The distribution of Atlantic sturgeon and smalltooth sawfish within the action area is more limited, but all of these species do overlap in certain regions of the action area and these species have the potential to be incidentally captured in CMP fisheries.

An incidental take statement for sea turtles, smalltooth sawfish, and Atlantic sturgeon was issued for incidental take coverage in the federal CMP fisheries throughout the action area. Reasonable and prudent measures to minimize the impact of these incidental takes were specified, along with terms and conditions to implement them.

On March 23, 2015, NMFS published a proposed rule (80 FR 15271) listing 11 distinct population segments (DPSs) for green sea turtles; the proposed North Atlantic DPS for green sea turtles is listed as threatened and is the only DPS whose individuals can be expected to be encountered in the action area. On June 29, 2016, NMFS published a Final Rule in the Federal Register listing Nassau grouper as a threatened species under the ESA, effective July 29, 2016. Because the range of both the North Atlantic and South Atlantic DPSs of green sea turtles and the Nassau grouper occur within the action area of the CMP fishery, NMFS reinitiated consultation on the CMP fishery in March 2017. NMFS completed an Amendment to the 2015 Opinion on November 13, 2017 (2017 Opinion Amendment). The 2017 Opinion Amendment concluded that the CMP fishery's continued authorization is not likely to adversely affect Nassau grouper and is likely to adversely affect, but is not likely to jeopardize, the North Atlantic and South Atlantic DPSs of green sea turtle. A revised incidental take statement was issued.

Since then, NMFS listed the giant manta ray (*Manta birostris*) as threatened under the ESA, effective February 21, 2018, and on January 30, 2018, NMFS listed the oceanic whitetip shark (*Carcharinus longimanus*) as threatened under the ESA, effective March 1, 2018.

On June 11, 2018, NMFS requested reinitiation of ESA section 7 consultation on the operation of the Atlantic CMP fisheries under the Magnuson-Stevens Act to address the listings of the giant manta ray and oceanic whitetip sharks. In the same consultation request memorandum, NMFS developed ESA section 7(a)(2) and section 7(d) analyses that considered allowing the CMP fishery to continue during the reinitiation period. As a result of those analyses, NMFS has determined that allowing the Atlantic CMP fisheries to continue during the reinitiation period is not likely to jeopardize any protected species, nor does it constitute an irreversible or irretrievable commitment of resources.

The actions contained in Amendment 34 are not anticipated to modify the operation of the CMP fishery in a manner that would cause effects to listed species or critical habitat that were not

considered in the 2015 Opinion, the 2017 Opinion Amendment, or in the June 11, 2018, analyses.

### **1.7 Executive Order 13158: Marine Protected Areas (MPAs)**

E.O. 13158 was signed on May 26, 2000, to strengthen the protection of U.S. ocean and coastal resources through the use of MPAs. The E.O. defined MPAs as “any area of the marine environment that has been reserved by federal, state, territorial, tribal, or local laws or regulations to provide lasting protection for part or all of the natural and cultural resources therein.” It directs federal agencies to work closely with state, local and non-governmental partners to create a comprehensive network of MPAs “representing diverse U.S. marine ecosystems, and the Nation’s natural and cultural resources.”

The alternatives considered in this document are consistent with the directives of E.O. 13158.

### **1.8 National Marine Sanctuaries Act (NMSA)**

Under the NMSA (also known as Title III of the Marine Protection, Research and Sanctuaries Act of 1972), as amended, the U.S. Secretary of Commerce is authorized to designate National Marine Sanctuaries to protect distinctive natural and cultural resources whose protection and beneficial use requires comprehensive planning and management. The National Marine Sanctuary Program is administered by the Sanctuaries and Reserves Division of NOAA. The NMSA provides authority for comprehensive and coordinated conservation and management of these marine areas. The National Marine Sanctuary Program currently comprises 13 sanctuaries around the country, including sites in American Samoa and Hawaii. These sites include significant coral reef and kelp forest habitats, and breeding and feeding grounds of whales, sea lions, sharks, and sea turtles. The three sanctuaries in the South Atlantic exclusive economic zone are the USS Monitor, Gray’s Reef, and Florida Keys National Marine Sanctuaries.

The alternatives considered in this document are not expected to have any adverse impacts on the resources managed by the National Marine Sanctuaries.

### **1.9 Executive Order 12962: Recreational Fisheries**

E.O. 12962 requires federal agencies, in cooperation with states and tribes, to improve the quantity, function, sustainable productivity, and distribution of U.S. aquatic resources for increased recreational fishing opportunities through a variety of methods. Additionally, the Order establishes a seven-member National Recreational Fisheries Coordination Council responsible for, among other things, ensuring that social and economic values of healthy aquatic systems that support recreational fisheries are considered by federal agencies in the course of their actions, sharing the latest resource information and management technologies, and reducing duplicative and cost-inefficient programs among federal agencies involved in conserving or managing recreational fisheries. The National Recreational Fisheries Coordination Council also is responsible for developing, in cooperation with federal agencies, states and tribes, a Recreational Fishery Resource Conservation Plan to include a five-year agenda. Finally, the

Order requires NMFS and the U.S. Fish and Wildlife Service to develop a joint agency policy for administering the ESA.

The alternatives considered in this document are consistent with the directives of E.O. 12962.

#### **1.10 Paperwork Reduction Act (PRA)**

The purpose of the PRA is to minimize the burden on the public. The PRA is intended to ensure that the information collected under the proposed action is needed and is collected in an efficient manner (44 U.S.C. 3501 (1)). The authority to manage information collection and record keeping requirements is vested with the Director of the Office of Management and Budget (OMB). This authority encompasses establishment of guidelines and policies, approval of information collection requests, and reduction of paperwork burdens and duplications. The PRA requires NMFS to obtain approval from the OMB before requesting most types of fishery information from the public. Actions in this document are not expected to affect PRA.

#### **1.11 Small Business Act (SBA)**

Enacted in 1953, the SBA requires that agencies assist and protect small-business interests to the extent possible to preserve free competitive enterprise. The objectives of the SBA are to foster business ownership by individuals who are both socially and economically disadvantaged; and to promote the competitive viability of such firms by providing business development assistance including, but not limited to, management and technical assistance, access to capital and other forms of financial assistance, business training, and counseling, and access to sole source and limited competition federal contract opportunities, to help firms achieve competitive viability. Because most businesses associated with fishing are considered small businesses, NMFS, in implementing regulations, must make an assessment of how those regulations will affect small businesses.

#### **1.12 Public Law 99-659: Vessel Safety**

Public Law 99-659 amended the Magnuson-Stevens Fishery Conservation and Management Act to require that a FMP or FMP amendment must consider, and may provide for, temporary adjustments (after consultation with the U.S. Coast Guard and persons utilizing the fishery) regarding access to a fishery for vessels that would be otherwise prevented from participating in the fishery because of safety concerns related to weather or to other ocean conditions. No vessel would be forced to participate in South Atlantic fisheries under adverse weather or ocean conditions as a result of the imposition of management regulations proposed in this amendment. No concerns have been raised by South Atlantic fishermen or by the U.S. Coast Guard that the proposed management measures directly or indirectly pose a hazard to crew or vessel safety under adverse weather or ocean conditions.

# Appendix B. Regulatory Impact Review

## Introduction

The National Marine Fisheries Service (NMFS) requires a Regulatory Impact Review (RIR) for all regulatory actions that are of public interest to satisfy the obligations under Executive Order (E.O.) 12866, as amended. In conjunction with the analysis of direct and indirect effects in the “Environmental Consequences” section of this Amendment, the RIR: 1) provides a comprehensive review of the level and incidence of impacts associated with a regulatory action; 2) provides a review of the problems and policy objectives prompting the regulatory proposals and an evaluation of the major alternatives which could be used to solve the problem; and 3) ensures that the regulatory agency systematically and comprehensively considers all available alternatives so that the public welfare can be enhanced in the most efficient and cost effective way. The RIR also serves as the basis for determining whether any proposed regulations are a "significant regulatory action" under certain criteria provided in Executive Order (E.O.) 12866. In addition, the RIR provides some information that may be used in conducting an analysis of the effects on small entities pursuant to the Regulatory Flexibility Act (RFA). This RIR analyzes the effects this regulatory action would be expected to have on the recreational and commercial sectors of the king mackerel and Spanish mackerel fishery.

## Problems and Objectives

The problems and objectives for the proposed actions are presented in Section 1.3 of this amendment and are incorporated herein by reference.

## Description of Fisheries

A description of the recreational and commercial sectors of the king mackerel and Spanish mackerel fishery is provided in Section 3.3 of this amendment and is incorporated herein by reference.

## Effects of Management Measures

**Action 1. Revise the acceptable biological catch, total annual catch limit and annual optimum yield for Atlantic migratory group king mackerel.**

A detailed analysis and discussion of the expected economic effects of the proposed action is included in Section 4.1.2. The following discussion summarizes the expected economic effects of the Council preferred alternative relative to the No Action alternative (i.e., the status quo).

In general, ACLs that allow for more fish to be landed can result in increased positive economic effects if harvest increases without notable effects on the stock of a species. The ACL does not

directly impact the fishery for a species unless harvest changes, fishing behavior changes, or the ACL is exceeded, thereby potentially triggering accountability measures (AM) such as harvest closures or other restrictive measures. As such, ACLs that are set above observed landings in a fishery for a species and do not change harvest or fishing behavior may not have realized economic effects each year. Nevertheless, ACLs set above observed average harvest levels do create a gap between the ACL and typical landings that may be utilized in years of exceptional abundance or accessibility of a species, thus providing the opportunity for increased landings and a reduced likelihood of triggering restrictive AMs. As such there are potential economic benefits from ACLs that allow for such a gap.

The potential revised total ACL for Atlantic king mackerel in **Preferred Alternative 3** are all higher than the observed landings in recent years. Based on the average landings over the most recent five years of available data (2015/16-2019/20), landings would be expected to continue to be below the existing and potential new ACLs and thus the ACLs are not constraining on harvest or fishing activity. As a result, no direct economic effects are anticipated from **Preferred Alternative 3** in the short-term. This includes no anticipated change in direct net economic benefits to the commercial sector, including consumer surplus for seafood consumers or producer surplus for commercial vessels or dealers. Additionally, there is no anticipated change in direct net economic benefits to the recreational sector, including consumer surplus for anglers or producer surplus in the for-hire component of the recreational sector.

While king mackerel harvest or fishing behavior for king mackerel are not expected to change as a result of revising the total ACL, a larger buffer between the ACL and observed landings would allow for higher potential landings and reduce the likelihood of restrictive AMs being triggered that would lead to short-term negative economic effects. Thus, under this notion, from a short-term economic perspective, **Preferred Alternative 3** would have the higher potential net economic benefits than **Alternative 1 (No Action)**, which is not a viable alternative.

## **Action 2. Revise sector allocations and sector annual catch limits for Atlantic migratory group king mackerel.**

A detailed analysis and discussion of the expected economic effects of the proposed action is included in Section 4.2.2. The following discussion summarizes the expected economic effects of the Council preferred alternative relative.

Sector ACLs are the result of applying sector allocations to the total ACL. In general, sector ACLs that allow for more fish to be landed can result in increased positive economic effects if harvest increases without notable long-term effects on the health of a stock. The sector ACL does not directly impact the fishery for a species unless harvest changes, fishing behavior changes, or the sector ACL is exceeded, thereby potentially triggering AMs such as harvest closures or other restrictive measures. As such, sector ACLs that are set above observed landings in a fishery for a species and do not change harvest or fishing behavior may not have realized economic effects each year. Nevertheless, sector ACLs set above observed average harvest levels do create a gap between the sector ACL and typical landings that may be utilized in years of exceptional abundance or accessibility of a species, thus providing the opportunity for increased landings and a reduced likelihood of triggering restrictive AMs. As such there are

potential economic benefits from sector ACLs that allow for such a gap between average landings and the sector ACL.

The potential revised sector ACLs for Atlantic king mackerel in **Preferred Alternative 1 (No Action)** are higher than observed landings in recent years. Based on the average landings over the most recent five years of available data (2015/16-2019/20), landings would be expected to continue to be below the potential new sector ACLs for both the commercial and recreational sectors and thus the sector ACLs are not constraining on harvest or expected to alter fishing activity. Also of note is that the existing sector ACLs in place currently, while not directly comparable in absolute terms, are not constraining on either sector. As such, no direct economic effects are anticipated from **Preferred Alternative 1 (No Action)** in the short-term. This includes no anticipated change in direct net economic benefits to the commercial sector, including consumer surplus for seafood consumers or producer surplus for commercial vessels or dealers. Additionally, there is no anticipated change in direct net economic benefits to the recreational sector, including consumer surplus for anglers or producer surplus in the for-hire component of the recreational sector.

While neither king mackerel harvest nor fishing behavior for king mackerel are expected to change for either the commercial or recreational sectors as a result of revising the sector ACLs, a larger gap between the sector ACL and observed landings would allow for a higher potential increase in landings and reduce the likelihood of restrictive AMs being triggered that would lead to short-term negative economic effects. Thus, under this notion, **Preferred Alternative 1 (No Action)** would have the highest potential economic benefit for the commercial sector. For the recreational sector the ranking would be the opposite from a short-term economic perspective with **Preferred Alternative 1 (No Action)** having the lowest potential economic benefit.

### **Action 3. Revise the recreational annual catch target for Atlantic migratory group king mackerel.**

A detailed analysis and discussion of the expected economic effects of the proposed action is included in Section 4.3.2. The following discussion summarizes the expected economic effects of the Council preferred alternative.

Typically, the purpose of ACTs is to help prevent a sector from exceeding its ACL due to management uncertainty. Exceeding an ACL would have direct negative economic effects on all sectors potentially due to a reduced stock size. In the case of Atlantic king mackerel, the ACT is part of the recreational post-season AM. If recreational landings exceed the ACL, and the sum of the commercial and recreational landings exceed the stock ACL, a reduced bag limit would be implemented the following year by the amount necessary to ensure the recreational landings may achieve the recreational ACT, but do not exceed the recreational ACL. However, harvest is not limited to the ACT, thus there are no direct economic effects but there may be indirect effects if a reduced bag limit that is geared towards achieving the ACT rather than the ACL results in additional decreased harvest of king mackerel. The more that harvest is restricted, the greater the loss in consumer surplus (CS) received from such harvest and thus negative economic effects. Under this notion, the lower the ACT, the great potential for short-term negative economic



effects. **Preferred Alternative 1 (No Action)** would have the second greatest potential for short-term negative economic effects of the alternatives considered.

**Action 4. Increase the recreational bag and possession limit for Atlantic migratory group king mackerel in the exclusive economic zone off the east coast of Florida.**

A detailed analysis and discussion of the expected economic effects of the proposed action is included in Section 4.4.2. The following discussion summarizes the expected economic effects of the Council preferred alternative relative to the No Action alternative (i.e., the status quo).

Generally, angler satisfaction increases with the number of fish that can be harvested on a trip. As such, an increase in the bag limit would lead to higher angler satisfaction from a recreational trip, likely resulting in higher overall net economic benefits and **Preferred Alternative 2** would be expected to result in higher net economic benefits when compared to **Alternative 1 (No Action)**. The estimated increase in net economic benefit from **Preferred Alternative 2** is \$1,363,815 (2019 \$).

**Action 5. Modify the recreational requirement for Atlantic migratory group king mackerel and Spanish mackerel to be landed with heads and fins in intact.**

A detailed analysis and discussion of the expected economic effects of the proposed action is included in Section 4.5.2. The following discussion summarizes the expected economic effects of the preferred alternative relative to the No Action alternative (i.e., the status quo).

Allowing possession of damaged Atlantic king mackerel or Spanish mackerel would increase harvest, which would provide positive direct economic effects for the recreational sector by allowing the possession of fish that would have previously been discarded. Additionally, since fish in such a state do not survive release, there are no net effects for the stock. In general, an increase in overall harvest would increase net economic benefits, as measured in CS, incurred from such harvest. Under this notion, the highest economic benefits would occur under **Preferred Sub-alternative 2a** and **Preferred Sub-alternative 2b**, followed by **Alternative 1 (No Action)**.

## **Public Costs of Regulations**

The preparation, implementation, enforcement, and monitoring of this or any federal action involves the expenditure of public and private resources, which can be expressed as costs associated with the regulations. Costs to the private sector are discussed in the effects of management measures. Estimated public costs associated with this action include:

South Atlantic Council costs of document preparation, meetings, public hearings, and information dissemination	\$18,323
NMFS administrative costs of document preparation, meetings, and review	\$29,218
TOTAL	\$57,540

The estimate provided above does not include any law enforcement costs. Any enforcement duties associated with this action would be expected to be covered under routine enforcement costs rather than an expenditure of new funds. The South Atlantic Council and NMFS administrative costs directly attributable to this amendment and the rulemaking process would be incurred prior to the effective date of the final rule implementing this amendment.

## **Net Benefits of Regulatory Action**

It is important to specify the time period being considered when evaluating benefits and costs. According to OMB's FAQs regarding Circular A-4,<sup>5</sup> "When choosing the appropriate time horizon for estimating costs and benefits, agencies should consider how long the regulation being analyzed is likely to have resulting effects. The time horizon begins when the regulatory action is implemented and ends when those effects are expected to cease. Ideally, analysis should include all future costs and benefits. Here as elsewhere, however, a 'rule of reason' is appropriate, and the agency should consider for how long it can reasonably predict the future and limit its analysis to this time period. Thus, if a regulation has no predetermined sunset provision, the agency will need to choose the endpoint of its analysis on the basis of a judgment about the foreseeable future."

For current purposes, the reasonably "foreseeable future" is considered to be the next 5 years. There are two primary reasons for considering the next 5 years the appropriate time period for evaluating the benefits and costs of this regulatory action rather than a longer (or shorter) time period. First, this regulatory action does not include a predetermined sunset provision. Second, based on the history of management in the coastal migratory pelagic fishery in the South Atlantic, regulations such as those considered in this amendment are often revisited within 5 years or so.

The analyses of the changes in economic benefits indicates an annual increase of \$1,363,815 in net economic benefits to the recreational sector, no quantified change in net economic benefits to the commercial sector, and total net economic benefits of \$1,363,815 (2019 \$). In discounted terms and over a 5-year time period, the total net present value of this change in net economic benefits is \$5,591,911 using a 7% discount rate and \$6,245,873 using a 3% discount rate (2019 \$). These estimates of net economic benefits are likely an upper bound estimate since there are noted unquantifiable benefits from actions in this amendment, such as those described in Action 5. The estimated non-discounted public costs resulting from the regulation are \$57,540 (2019 \$). The costs resulting from the amendment and the associated rulemaking process should not be discounted as they will be incurred prior to the effective date of the final rule.

Based on the quantified economic effects, this regulatory action is expected to increase net benefits to the Nation. Over a 5-year time period, the quantified net change in economic benefits is expected to be \$5,534,370 using a 7% discount rate and \$6,188,333 using a 3% discount rate (2019 \$).

## **Determination of Significant Regulatory Action**

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<sup>5</sup> See p. 4 at [https://obamawhitehouse.archives.gov/sites/default/files/omb/assets/OMB/circulars/a004/a-4\\_FAQ.pdf](https://obamawhitehouse.archives.gov/sites/default/files/omb/assets/OMB/circulars/a004/a-4_FAQ.pdf)

Pursuant to E.O. 12866, a regulation is considered a “significant regulatory action” if it is likely to result in: 1) an annual effect of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; 2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; 3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights or obligations of recipients thereof; or 4) raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in this executive order. Based on the information provided above, these actions have been determined to not be economically significant for the purposes of E.O. 12866. In absolute terms, the maximum expected total annual costs and benefits of this amendment are \$1,421,355 (2019 \$).

# Appendix C. Regulatory Flexibility Analysis

## Introduction

The purpose of the Regulatory Flexibility Act (RFA) is to establish a principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and applicable statutes, to fit regulatory and informational requirements to the scale of businesses, organizations, and governmental jurisdictions subject to regulation. To achieve this principle, agencies are required to solicit and consider flexible regulatory proposals and to explain the rationale for their actions to assure that such proposals are given serious consideration. The RFA does not contain any decision criteria; instead, the purpose of the RFA is to inform the agency, as well as the public, of the expected economic impacts of the alternatives contained in the fishery management plan (FMP) or amendment (including framework management measures and other regulatory actions) and to ensure that the agency considers alternatives that minimize the expected impacts while meeting the goals and objectives of the FMP and applicable statutes.

With certain exceptions, the RFA requires agencies to conduct a regulatory flexibility analysis for each proposed rule. The regulatory flexibility analysis is designed to assess the impacts various regulatory alternatives would have on small entities, including small businesses, and to determine ways to minimize those impacts. The following regulatory flexibility analysis was conducted to determine if the proposed rule would have a significant economic impact on a substantial number of small entities or not.

## **Statement of the need for, objective of, and legal basis for the proposed rule.**

The need for and objectives of the proposed action are presented in Section 1.3.1 and are incorporated herein by reference. The Magnuson-Stevens Act provides the statutory basis for this proposed rule.

## **Identification of federal rules which may duplicate, overlap or conflict with the proposed rule.**

No federal rules have been identified that duplicate, overlap or conflict with the rule.

## **Description and estimate of the number of small entities to which the proposed action would apply.**

The rule concerns commercial and recreational fishing for Atlantic migratory king mackerel in federal waters of the Mid-Atlantic and South Atlantic. Both anglers (recreational fishers) and

commercial fishing businesses would be directly affected by this rule; however, anglers are not considered small entities as that term is defined in 5 United States Code (U.S.C.) 601(6), whether fishing from for-hire fishing, private or leased vessels. Therefore, estimates of the number of anglers affected by the rule and impacts on them are not provided here. For-hire fishing businesses would be indirectly affected, and because the effects on for-hire fishing businesses are indirect, they fall outside the scope of the RFA.

The rule would directly apply to businesses that operate in the commercial fishing industry and particularly, those that operate commercial fishing vessels that harvest king mackerel in the Mid-Atlantic and South Atlantic Exclusive Economic Zone (EEZ). Any commercial fishing vessel that harvests king mackerel in those waters must have a valid king mackerel permit specifically assigned to that vessel.<sup>6</sup> The permit is a limited access permit. After a king mackerel permit expires, it can be renewed or transferred up to one year after the date of expiration. If it is not renewed or transferred within that one-year period, the permit is permanently removed. From 2015 to 2019, the number of king mackerel (KM) permits held declined from 1,460 to 1,435, and 25 were permanently removed. The decline was primarily an elimination of KM permits held by entities located in the Gulf region; however, some permits held by entities in the Gulf were transferred to entities located in the South Atlantic. Because this action concerns Atlantic king mackerel and not Gulf migratory king mackerel, the focus here will be entities who hold king mackerel permits and are located in the South Atlantic and Mid-Atlantic regions.

Over 97% of the permits held by entities in the South Atlantic and Mid-Atlantic are held by entities located in the South Atlantic (Table C.1). From 2015 to 2019, the total number of permits held by entities in the Mid-Atlantic and South Atlantic increased by two. In 2020, it increased by 12, and more recently, as of August 24, 2021, there were nine more permits held by entities located in Mid-Atlantic and South Atlantic than in 2020.

**Table C.1.** Number of king mackerel (KM) permits by region where permit holders are located and percentage held by entities located in South Atlantic, 2015-2019.

Year	Total Mid-and South Atlantic	South Atlantic	Mid Atlantic	Percentage South Atlantic
2015	868	844	24	97.24%
2016	850	831	19	97.76%
2017	851	834	16	98.00%
2018	850	835	15	98.24%
2019	870	852	18	97.93%
Average	858	839	18	97.83%
2020	882	862	20	97.73%
August 24, 2021	901	878	23	97.44%

Source: National Marine Fisheries Service (NMFS) Southeast Regional Office (SERO) Permit Counts for 2015-2020 and Program Information Management System (PIMS) for August 24, 2021.

<sup>6</sup> The king mackerel permit is also required to harvest king mackerel from the Gulf EEZ.

From 2015 to 2019, an average of approximately 68% of king mackerel permits held by entities in the South Atlantic were located in eastern Florida (FL). That percentage rose to approximately 69% in 2020 and then to approximately 72% by August 24, 2021 (Table C.2). Entities located in North Carolina (NC) held the second highest number of permits, followed in turn by entities in South Carolina (SC), and Georgia (GA).

**Table C.2.** Number of KM permits in South Atlantic by state where permit holders are located, 2015-2019.

Year	Eastern FL	NC	SC	GA	Percentage Eastern FL
2015	577	231	26	10	68.36%
2016	559	237	25	10	67.27%
2017	559	240	25	10	67.03%
2018	568	231	26	10	68.02%
2019	589	229	23	11	69.13%
Average	570	234	25	10	67.96%
2020	601	229	21	11	69.13%
August 24, 2021	631	219	19	9	71.87%

Source: NMFS SERO Permit Counts for 2015-2020 and PIMS for August 24, 2021.

As of August 24, 2021, an estimate 22 unique businesses that are located in the Mid-Atlantic hold 23 king mackerel permits and another 722 unique businesses that are located in the South Atlantic hold 878 KM permits. Approximately 69% of the 722 businesses in the South Atlantic are located in eastern Florida.

Almost all commercial landings of Atlantic king mackerel occur within the South Atlantic. From 2015 through 2019, an average of 99.9% of commercial landings of king mackerel were harvested from and landed in the South Atlantic region (Atlantic Coastal Cooperative Statistics Program (ACCSP) data). Because commercial harvest from and landings in the South Atlantic are so predominant, the following analysis focuses on king mackerel harvested from the South Atlantic region and landed in a South Atlantic state.<sup>7</sup>

On average, from 2015 through 2019, approximately 81% (681) of the 839 KM permitted vessels operated by South Atlantic entities had annual reported landings of king mackerel (Table C.3). In 2020, although the data are preliminary, that percentage fell to approximately 77%; however, the number of vessels that reported landings in 2020 is within the range from 2015 through 2019.

<sup>7</sup> In only one of the five years from 2015 through 2019 were king mackerel harvested from the South Atlantic and landed in a state outside the South Atlantic. In 2020, although data are preliminary, there were again no reported landings of king mackerel harvested from the South Atlantic and landed in a state outside the South Atlantic.

**Table C.3.** Number of KM permits held by entities residing in South Atlantic region, and number and percentage of those KM permitted vessels that reported landings of KM, 2015-2019, 2020.

Year	Permitted Vessels in SA region	Permitted Vessels in SA region with KM Landings	Percentage of Permitted Vessels in SA region with KM Landings
2015	844	693	82.2%
2016	831	688	82.8%
2017	834	678	81.3%
2018	835	657	78.7%
2019	852	687	80.6%
Average	839	681	81.1%
2020 <sup>1</sup>	862	667	77.37%

1. Preliminary data.

Source: NMFS SERO Permit Counts for number of vessels with permit (May 12, 2021) and Southeast Fisheries Science Center (SEFSC) Socioeconomic Panel (Jan21) accessed by the SEFSC Economic Query System (August 2021) for vessels that land KM.

Together the above 681 permitted vessels landed an annual average of approximately 2.47 million pounds gutted weight (lbs gw) of Atlantic king mackerel with a dockside value of approximately \$5.68 million (2019 dollars (\$)) (Table C.4). King mackerel accounted for 28.6% of dockside revenue from all landings by these vessels. However, for those trips with landings of king mackerel, dockside revenue from king mackerel represented an average of approximately 70% of dockside revenue from those trips.

**Table C.4.** Total dockside revenue (2019 dollars) from king mackerel, jointly caught species, and other species landed by permitted vessels that landed king mackerel, 2015-2019.

Year	Revenue from KM Landings (2019 \$)	Revenue from Jointly Caught Species (2019 \$)	Revenue from Other Trips (2019 \$)	Total Revenue from All Trips (2019 \$)	Percent Total Revenue from KM Landings
2015	\$4,767,489	\$1,864,123	\$13,190,628	\$19,822,240	24.1%
2016	\$5,605,620	\$2,257,036	\$12,548,757	\$20,411,414	27.5%
2017	\$6,101,657	\$2,723,047	\$12,294,140	\$21,118,844	28.9%
2018	\$5,777,345	\$2,896,204	\$10,594,163	\$19,267,712	30.0%
2019	\$6,161,121	\$2,565,266	\$10,107,300	\$18,832,687	32.7%
Average	\$5,682,446	\$2,461,135	\$11,746,998	\$19,890,579	28.6%

Source: SEFSC Socioeconomic Panel (Jan21) accessed by the SEFSC Economic Query System (August 2021) and Bureau of Economic Analysis (BEA) Gross Domestic Product (GDP) deflator (issued April 2021).

An estimated 532 unique businesses operate the average 681 permitted vessels that harvest king mackerel. Those 532 businesses represent approximately 74% of the 722 unique businesses located in the South Atlantic and that hold 878 KM permits.

The average KM permitted vessel that annually harvests and lands king mackerel in the South Atlantic has a total annual revenue of \$29,232 (2019 \$) from all landings. Approximately 29% (\$8,357 (2019 \$) of total annual revenue are from landings of king mackerel (Table C.5).

**Table C.5.** Average annual dockside revenue (2019 dollars) per vessel from king mackerel and all landings for KM permitted vessels that reported landing king mackerel 2015-2019.

Year	Average Revenue from KM Landings per Permitted Vessel (2019 \$)	Average Total Revenue (from All Landings) per KM Permitted Vessel (2019 \$)	Average Percentage of Total Revenue from KM Landings
2015	\$6,879	\$28,604	24.05%
2016	\$8,148	\$29,668	27.46%
2017	\$8,999	\$31,149	28.89%
2018	\$8,794	\$29,327	29.99%
2019	\$8,967	\$27,413	32.71%
Average	\$8,357	\$29,232	28.62%

Source: SEFSC Socioeconomic Panel (Jan21) accessed by the SEFSC Economic Query System (August 2021) and BEA GDP deflator (issued April 2021).

The relative importance of KM landings varies by state as does average annual revenue per vessel vary by state. Landings of king mackerel account for approximately 35% of annual total revenue for the average FL/GA permitted vessel that lands the stock, as opposed to 21% for the average NC permitted vessel and 3% for the average SC permitted vessel that lands king mackerel (Tables C.6-C.8). Annual total dockside revenue (from all species landed) for the average permitted vessel that lands king mackerel in Florida/Georgia is approximately \$26,446 (2019 \$), whereas the average permitted vessel with landings of king mackerel in North Carolina and South Carolina has annual total dockside revenue of \$28,651 and \$83,633 (2019 dollars), respectively.

**Table C.6.** Average annual dockside revenue (2019 dollars) from KM and all landings per permitted vessel with KM landings in Florida/Georgia, and percentage of total revenue from KM, 2015 – 2019.

Year	Average Revenue from KM Landings per Vessel	Average Total Revenue per Vessel with KM Landings	Percentage of Total Revenue from KM Landings
2015	\$7,742	\$26,596	29.11%
2016	\$9,238	\$26,776	34.50%
2017	\$9,790	\$27,968	35.00%
2018	\$9,704	\$26,571	36.52%
2019	\$9,619	\$24,317	39.56%
Average	\$9,218	\$26,446	34.94%

Source: SEFSC Socioeconomic Panel (Jan21) accessed by the SEFSC Economic Query System (August 2021) and BEA GDP deflator (April 2021).



**Table C.7.** Average annual dockside revenue (2019 dollars) from KM and all landings per permitted vessel with KM landings in North Carolina, and percentage of total revenue from KM landings, 2015-2019.

Year	Average Revenue from KM Landings per Vessel	Average Annual Revenue per Vessel with KM Landings	Percentage of Total Revenue from KM Landings
2015	\$4,525	\$24,746	18.29%
2016	\$4,897	\$28,675	17.08%
2017	\$7,167	\$30,547	23.46%
2018	\$6,480	\$29,508	21.96%
2019	\$7,531	\$29,779	25.29%
Average	\$6,120	\$28,651	21.22%

Source: SEFSC Socioeconomic Panel (Jan21) accessed by the SEFSC Economic Query System (August 2021) and BEA GDP deflator (April 2021).

**Table C.8.** Average annual dockside revenue (2019 dollars) from KM and all landings per permitted vessel with KM landings in South Carolina, and percentage of total revenue from KM landings, 2015-2019.

Year	Average Revenue from KM Landings per Vessel	Average Annual Revenue per Vessel with KM Landings	Percentage of Total Revenue from KM Landings
2015	\$1,214	\$81,793	1.48%
2016	\$3,389	\$96,622	3.51%
2017	\$2,925	\$86,531	3.38%
2018	\$2,659	\$70,529	3.77%
2019	\$2,535	\$82,690	3.07%
Average	\$2,544	\$83,633	3.04%

Source: SEFSC Socioeconomic Panel (Jan21) accessed by the SEFSC Economic Query System (August 2021) and BEA GDP deflator (April 2021).

NMFS expects all of the estimated 532 businesses that operate the average annual 681 KM permitted vessels that harvest Atlantic king mackerel primarily operate in, but not necessarily exclusively in, the commercial fishing industry. For RFA purposes only, NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (see 50 Code of Federal Regulations (CFR) 200.2). A business primarily engaged in commercial fishing (North American Industry Classification System (NAICS) code 11411) is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including affiliates) and has combined annual receipts not in excess of \$11 million for all its affiliated operations worldwide. As shown in Tables C.4 to C.7, the average annual total revenue for a permitted vessel that reports landings of king mackerel is substantially less than \$11 million. Moreover, additional analysis indicates none of the estimated 532 businesses have combined revenues that reach that figure. Therefore, all of the 532 businesses that operate commercial vessels that annually harvest king mackerel in the South Atlantic EEZ are small.

## Description of the projected reporting, record-keeping, and other compliance requirements of the proposed rule

This rule is composed of 7 actions. Four of the actions (3, 4, 5 and 7) concern recreational fishing only and for reasons stated above their impacts are not relevant to this analysis. None of the other proposed actions would impose additional reporting or record-keeping requirements.

### Action 1

Preferred Alternative 3 would revise the acceptable biological catch (ABC) and total annual catch limit (ACL) (recreational and commercial) for Atlantic king mackerel. Under Alternative 1 (No Action) the ABC and Total ACL would remain at 12,700,000 lbs, whereas under Preferred Alternative 3, (a) the ABC would increase, (b) the Total ACL would be set at 95% of the ABC, and (c) the Total ACL would increase as shown in Table C.9.<sup>8</sup> Action 1, Preferred Alternative 3, would have an indirect effect on small commercial fishing businesses that is dependent on Action 2 (sector allocation).

**Table C.9.** Total ACL (lbs) under Alternative 1 (No Action) and Preferred Alternative 3.

<b>Fishing Year<sup>1</sup></b>	<b>Alternative 1 (No Action)<sup>2</sup></b>	<b>Preferred Alternative 3</b>	<b>Increase</b>
2022/23	12,700,000	31,635,000	18,935,000
2023/24	12,700,000	27,075,000	14,375,000
2024/25	12,700,000	24,130,000	11,430,000
2025/26	12,700,000	22,135,000	9,435,000
2026/27+	12,700,000	20,710,000	8,010,000

1. The fishing year runs from March 1 to the end of February.

2. Total ACL as stated in 50 CFR §622.388.

### Action 2

Preferred Alternative 1 would allocate 37.1% of the Total ACL to the commercial sector and the remaining 62.9% to the recreational sector. The status quo Commercial ACL is 4,700,000 lbs. Preferred Alternative 1 combined with Action 1, Preferred Alternative 3, would increase the commercial ACL by approximately 7.04 million lbs in the 2022/23 fishing year, followed by smaller increases thereafter until it would remain at approximately 2.98 million lbs after the 2026/2027 fishing year (Table C.10).

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<sup>8</sup> The status quo is not a viable option because the current ABC and Total ACL are based on a previous stock assessment (SEDAR 38 2014) that is no longer consistent with the best scientific information currently available. The Preferred Alternative is consistent with the most recent stock assessment (SEDAR 38 Update 2020) and SSC recommendations.

**Table C.10.** Commercial ACL (lbs) under the status quo and Action 2, Preferred Alternative 1 (assuming Action 1, Preferred Alternative 3).

<b>Fishing Year</b>	<b>Status Quo</b>	<b>Preferred Alternative 1</b>	<b>Increase</b>
2022/23	4,700,000	11,736,585	7,036,585
2023/24	4,700,000	10,044,825	5,344,825
2024/25	4,700,000	8,952,230	4,252,230
2025/26	4,700,000	8,212,085	3,512,085
2026/27 +	4,700,000	7,683,410	2,983,410

The increased commercial ACL would allow for increased king mackerel landings, which could benefit the average annual 681 permitted vessels that harvest Atlantic king mackerel and the 532 small businesses that operate those vessels. With an average dockside price of \$2.30 per lb (2019 dollars), the maximum annual benefit to the combined small businesses, assuming they account for all king mackerel ACL landings, would be annual increases in dockside revenue from king mackerel landings that would range from approximately \$6.8 million to \$16.2 million (2019 dollars) (Table C.11). However, that suggests commercial landings have been limited by the status quo commercial ACL and would expand beyond it once the ACL is increased. That has not occurred from the 2015/16 through 2019/20 fishing years (Table C.12). Consequently, there is expected to be no increase in landings and dockside revenues because of Preferred Alternative 1 (and Action 1, Preferred Alternative 3).

**Table C.11.** Maximum annual dockside revenue (2019 dollars) from status quo and Action 2, Preferred Alternative 1 (assuming Action 1, Preferred Alternative 3).

<b>Fishing Year</b>	<b>Status Quo</b>	<b>Preferred Alternative 1</b>	<b>Increase</b>
2022/23	\$10,836,910	\$26,994,146	\$16,157,236
2023/24	\$10,836,910	\$23,103,098	\$12,266,188
2024/25	\$10,836,910	\$20,590,129	\$9,753,219
2025/26	\$10,836,910	\$18,887,796	\$8,050,886
2026/27+	\$10,836,910	\$17,671,843	\$6,834,933

**Table C.12.** Commercial ACL and landings (lbs), 2015/16 – 2019/20.

<b>Fishing Year</b>	<b>ACL</b>	<b>Landings</b>
2015/2016	3,880,000	1,810,640
2016/2017	3,880,000	1,555,185
2017/2018	5,900,000	2,688,778
2018/2019	5,200,000	2,899,528
2019/2020	4,700,000	2,971,512

Source: WH\_ACLS\_2014-2020\_05APR2021workingcopy.xlsx.

The commercial ACL is and has been divided into two zones, each with its own quota. The Northern Zone is an area that includes federal waters that extend from a line extending from the New York/Connecticut/Rhode Island boundary to a line extending from the North Carolina/South Carolina boundary, and it is allocated 23.04% of the commercial ACL. The Southern Zone includes federal waters from the line extending from the North Carolina/South Carolina boundary to a line extending due east of the Monroe/Miami-Dade County, FL,

boundary, and it is allocated the remaining 76.96% of the commercial ACL. Under Preferred Alternative 1 (coupled with Preferred Alternative 3 of Action 1), the zone allocations would not change, but the quotas for both zones would increase with the increase in the commercial ACL.

Since the 2015/2016 fishing year, landings from the Northern Zone have not reached the zone's quota and have never risen above 68.1% of the zone's quota. Consequently, the increases in the Northern Zone quota under Preferred Alternative 1 (coupled with Preferred Alternative 3 of Action 1) are not expected to have any beneficial impact on small businesses that harvest king mackerel in the Northern Zone because landings from the Northern Zone have been less than its status quo quota (1,082,880 lbs). Nonetheless, there is a potential benefit in the future because landings from the Northern Zone would be able to exceed the status quo quota.

The area currently defined as the Southern Zone was implemented during the 2017/2018 fishing year, and since 2018/19, king mackerel landings in the Southern Zone have been less than its quota. Consequently, the increases in the Southern Zone quota under Preferred Alternative 1 (coupled with Preferred Alternative 3 of Action 1) are not expected to have any beneficial impact on small businesses that harvest king mackerel in the Southern Zone because landings from the Southern Zone have been less than the status quo quota of 3,617,120 lbs. Nonetheless, there is the potential future benefit that comes from increases in the Southern Zone quota.

Since 2020/21, the fishing year for the Southern Zone has been divided into Season 1 (March 1 – September 30) and Season 2 (October 1 – end of February), with 60% of the Southern Zone quota allocated to Season 1 and the remaining 40% being allocated to Season 2. Landings of king mackerel in Season 1 and Season 2 in 2020/21 were less than the seasonal quotas. Hence, the increases in the Southern Zone seasonal quotas under Preferred Alternative 1 (coupled with Preferred Alternative 3 of Action 1) are not expected to have any beneficial impact on small businesses that harvest king mackerel in the Southern Zone during either Season 1 or Season 2. Nonetheless, there is the potential future benefit that comes from increases in the seasonal quotas.

Action 2, Preferred Alternative 1 and Action 1, Preferred Alternative 3 would not change the commercial trip limits. Currently, the commercial trip limit in the Northern Zone is 3,500 lbs. Within the Southern Zone, the trip limit varies by area, and there are three areas. In one of those areas, the commercial trip limit is tied to the percentage of the Season 1 quota landed: from April 1 through September 30, the commercial trip limit is 75 fish, unless NMFS determines that 75 percent or more of the Season 1 quota has been landed, then, the trip limit is 50 fish. The increase in the Southern Zone Season 1 quota (Preferred Alternative 1 and Action 1, Preferred Alternative 3) would reduce the likelihood of a trip limit reduction from 75 fish to 50 fish. In 2021, there was no reduction in the Season 1 trip limit; which suggests there the trip limit would continue at 75 fish in the future. Nonetheless, there is the potential benefit that in the future there would be fewer, if any, reductions in the trip limit during Season 1 because of the higher seasonal quota.

#### Actions 3 and 4

Action 3, Preferred Alternative 1, would not revise the recreational annual catch target for Atlantic king mackerel and would have indirect impacts on anglers and for-hire fishing businesses. Action 4, Preferred Alternative 2, would increase the recreational bag and possession limit for king mackerel in the Atlantic EEZ off of Florida from two to three fish and that increase would have a direct beneficial impact on anglers and an indirect benefit on for-hire fishing businesses.

### **Significance of economic impacts on a substantial number of small entities**

The proposed rule would not have a significant economic impact on a substantial number of small businesses. There is potentially a beneficial economic impact on small businesses that harvest Atlantic king mackerel in the future; however, that benefit would require landings in the future to significantly increase beyond what they have been to date.

# Appendix D. Essential Fish Habitat

## I. EFH and EFH-HAPC Designations and Cooperative Habitat Policy Development and Protection

The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires federal fishery management Councils and the National Marine Fisheries Service (NMFS) to designate essential fish habitat (EFH) for species managed under federal fishery management plans (FMP). Federal regulations that implement the EFH program encourage fishery management Councils and NMFS also to designate subsets of EFH to highlight priority areas within EFH for conservation and management. These subsets of EFH are called EFH-Habitat Areas of Particular Concern (EFH-HAPCs or HAPCs) and are designated based on ecological importance, susceptibility to human-induced environmental degradation, susceptibility to stress from development, or rarity of the habitat type. Information supporting EFH and EFH-HAPC designations was updated (pursuant to the EFH Final Rule) in Fishery Ecosystem Plan (FEP) II.

### a. South Atlantic Council EFH User Guide

The [EFH Users Guide](#) developed during the FEP II development process is available through the FEP II Dashboard and provides a comprehensive list of the designations of EFH and EFH-HAPCs for all species managed by the South Atlantic Fishery Management Council (South Atlantic Council) and the clarifications identified during FEP II development. As noted above, additional detailed information supporting the EFH designations appears in FEP, FEP II, and in individual FMPs, and general information on the EFH provisions of the Magnuson-Stevens Act and its implementing regulations (50 CFR 900 [Subparts J](#) and [K](#)). These sources should be reviewed for information on the components of EFH assessments, steps to EFH consultations, and other aspects of EFH program operation.

### b. South Atlantic Council EFH Policy and EFH Policy Statements

#### *Policy for Protection and Restoration of EFH*

#### *South Atlantic Council Habitat and Environmental Protection Policy*

In recognizing that species are dependent on the quantity and quality of their essential habitats, it is the policy of the South Atlantic Council to protect, restore, and develop habitats upon which fisheries species depend; to increase the extent of their distribution and abundance; and to improve their productive capacity for the benefit of present and future generations. For purposes of this policy, “habitat” is defined as the physical, chemical, and biological parameters that are necessary for continued productivity of the species that is being managed. The objectives of the South Atlantic Council policy will be accomplished through the recommendation of no net loss or significant environmental degradation of existing habitat. A long-term objective is to support and promote a net-gain of fisheries habitat through the restoration and rehabilitation of the productive capacity of habitats that have been degraded, and the creation and development of productive habitats where increased fishery production is probable. The South Atlantic Council will pursue these goals at state, Federal, and local levels. The South Atlantic Council shall assume an aggressive role in the protection and enhancement of habitats important to fishery species and shall

actively enter Federal decision-making processes where proposed actions may otherwise compromise the productivity of fishery resources of concern to the South Atlantic Council.

### ***South Atlantic Council EFH Policy Statements***

#### ***Considerations to Reduce or Eliminate the Impacts of Non-Fishing Activities on EFH***

In addition to implementing regulations to protect habitat from degradation due to fishing activities, the South Atlantic Council in cooperation with NMFS, actively comments on non-fishing projects or policies that may impact fish habitat. The South Atlantic Council established a Habitat Protection and Ecosystem Based Management Advisory Panel (AP) and adopted a comment and policy development process. Members of the AP serve as the South Atlantic Council's habitat contacts and professionals in the field and have guided the South Atlantic Council's development of the following Policy Statements:

- [EFH Policy Statement on South Atlantic Climate Variability and Fisheries \(December 2016\)](#)
- [EFH Policy Statement on South Atlantic Food Webs and Connectivity \(December 2016\)](#)
- [Protection and Restoration of EFH from Marine Aquaculture \(June 2014\)](#)
- [Protection and Enhancement of Marine Submerged Aquatic Vegetation \(June 2014\)](#)
- [Protection and Restoration of EFH from Beach Dredging and Filling, Beach Re-nourishment and Large Scale Coastal Engineering \(March 2015\)](#)
- [Protection and Restoration of EFH from Energy Exploration, Development, Transportation and Hydropower Re-Licensing \(December 2015\)](#)
- [Protection and Restoration of EFH from Alterations to Riverine, Estuarine and Nearshore Flows \(June 2014\)](#)
- [Policies for the Protection of South Atlantic Marine & Estuarine Ecosystems from Non-Native and Invasive Species \(June 2014\)](#)
- [Policy Considerations for Development of Artificial Reefs in the South Atlantic Region and Protection of Essential Fish Habitat \(September 2017\)](#)

## **II. Habitat Conservation and Fishery Ecosystem Plans**

The South Atlantic Council, views habitat conservation as the foundation in the move to Ecosystem Based Fishery Management (EBFM) in the region. The South Atlantic Council has been proactive in advancing habitat conservation through extensive gear restrictions in all South Atlantic Council FMPs and by directly managing habitat and fisheries affecting those habitats through two FMPs, the [FMP for Coral, Coral Reefs and Live/Hard Bottom Habitat of the South Atlantic Region](#) (Coral FMP) and the [FMP for the Sargassum Fishery of the South Atlantic Region](#). The FMP for the Dolphin and Wahoo Fishery in the Atlantic represents a proactive FMP which established fishery measures and identified EFH in advance of overfishing or habitat impacts from the fisheries.

Building on the long-term conservation approach, the South Atlantic Council facilitated the evolution of the Habitat Plan into the first FEP to provide a clear description and understanding of the fundamental physical, biological, and human/institutional context of ecosystems within which fisheries are managed and identify information needed and how that information should be used in the context of FMPs. Developing a South Atlantic FEP required a greater understanding of the South Atlantic ecosystem, including both the complex relationships among humans, marine life, the environment and essential fish habitat and a more comprehensive understanding of the biological, social, and economic impacts of management necessary to initiate the transition from single species management to EBFM in the region. To support the

move towards EBFM, the South Atlantic Council adopted broad goals: (1) maintaining or improving ecosystem structure and function; (2) maintaining or improving economic, (3) social, and cultural benefits from resources; and (4) maintaining or improving biological, economic, and cultural diversity.

### **III. Ecosystem Approach to Conservation and Management of Deep-water Ecosystems**

Through [Comprehensive Ecosystem-Based Amendment 1](#), [Comprehensive Ecosystem-Based Amendment 2](#), and [Coral Amendment 8](#), the South Atlantic Council established and expanded deep-water coral HAPCs (CHAPCs) and co-designated them as EFH-HAPCs to protect the largest continuous distribution (>23,000 square miles) of pristine deep-water coral ecosystems in the world from fishing and non-fishing activities.

### **IV. FEP II Development**

The South Atlantic Council developed FEP II in cooperation with NMFS, as a mechanism to incorporate ecosystem principles, goals, and policies into the fishery management process, including consideration of potential indirect effects of fisheries on food web linkages when developing harvest strategies and management plans. South Atlantic Council policies developed through the process support data collection, model and supporting tool development, and implementation of FEP II. FEP II and the FEP II Implementation Plan provide a system to incorporate of ecosystem considerations into the management process.

FEP II was developed employing writing and review teams established from the South Atlantic Council's Habitat Protection and Ecosystem Based Management AP, and experts from state, federal, NGOs, academia and other regional organizations and associations. Unlike the original Plan, FEP II is a living continually developing online information system presenting core sections and sections with links to documents or other online systems with detailed updated information on species, habitat, fisheries and research. A core part of the FEP II development process involved engaging the South Atlantic Council's Habitat Protection and Ecosystem Based Management AP and regional experts in developing new sections and ecosystem- specific policy statements to address South Atlantic food webs and connectivity and South Atlantic climate variability and fisheries. In addition, standing essential fish habitat policy statements were updated and a new artificial reef habitat policy statement was approved. In combination, these statements advance habitat conservation and the move to EBFM in the region. They also serve as the basis for further policy development, consideration in habitat and fish stock assessments and future management of fisheries and habitat. They also support a more comprehensive view of conservation and management in the South Atlantic and identify long-term information needs, available models, tools, and capabilities that will advance EBFM in the region.



### **FEP II Dashboard (In transition to new Habitat and Ecosystem Page)**

The FEP II Dashboard and associated online tools provided a clear description of the fundamental physical, biological, human, and institutional context of South Atlantic ecosystems within which fisheries are managed. The Council's new website (under development) will include a new Habitat and Ecosystem page where the FEP II Dashboard layout shown below will be refined and integrated.

- Introduction
- South Atlantic Ecosystem
- South Atlantic Habitats
- Managed Species
- Social and Economic
- Essential Fish Habitat
- SAFMC Managed Areas
- Research & Monitoring
- SAFMC Tools

## **V. NOAA EBFM Activities Supporting FEP II**

### **a. NOAA EBFM Policy and Road Map**

To support the move to EBFM, NMFS developed an agency-wide EBFM Policy and Road Map (available through Ecosystem page (under revision) of the FEP II Dashboard that outlines a set of principles to guide actions and decisions over the long-term to: implement ecosystem-level planning; advance our understanding of ecosystem processes; prioritize vulnerabilities and risks of ecosystems and their components; explore and address trade-offs within an ecosystem; incorporate ecosystem considerations into management advice; and maintain resilient ecosystems.

### **b. FEP II Implementation Plan Structure and Framework**

The Implementation Plan is structured to translate approved policy statements of the South Atlantic Council into actionable items. The plan encompasses chapters beginning with an introduction to the policy statement, a link to the complete policy statement, and a table which translates policies and policy components into potential action items. The actions within the plan are recommendations for activities that could support the South Atlantic Council's FEP II policies and objectives.

### **c. FEP II Two Year Roadmap**

The FEP II Two Year Roadmap draws from the Implementation Plan and presents three to five priority actions for each of the nine approved policy statements of the South Atlantic Council which would be initiated or completed over the next two years (2019-2020). The Roadmap provides "Potential Partners" and other potential regional collaborators, a focused list of priority actions they could cooperate with the South Atlantic Council on to advance policies supporting the move to EBFM in the South Atlantic region.

**d. *Monitoring/Revisions to FEP II Implementation Plan***

FEP II and this supporting Implementation Plan are considered active and living documents. The Implementation Plan will be reviewed and updated periodically. During their spring meeting in 2021 and every three years following, the Habitat Protection and Ecosystem Based Management AP will engage regional experts as needed, to determine whether additional actions addressing council policies should be added to the implementation plan. The South Atlantic Council's Habitat Protection and Ecosystem Based Management Committee will review, revise and refine those recommendations for South Atlantic Council consideration and approval for inclusion into the implementation plan.

**VI. Regional Habitat and Ecosystem Partners**

The South Atlantic Council, with the Habitat Protection and Ecosystem Based Management AP as the foundation, collaborates with regional partners to create a comprehensive habitat and ecosystem network in the region to enhance habitat conservation and EBFM.

Detailed information and links to partners are highlighted online:

[https://ocean.floridamarine.org/safmc\\_dashboard/partners.html](https://ocean.floridamarine.org/safmc_dashboard/partners.html).

**VII. Regional Ecosystem Modeling in the South Atlantic**

**a. *South Atlantic Ecopath with Ecosim Model***

The South Atlantic Council worked cooperatively with the University of British Columbia and the Sea Around Us project to develop a straw-man and preliminary food web models (Ecopath with Ecosim) to characterize the ecological relationships of South Atlantic species, including those managed by the South Atlantic Council. This effort helped the South Atlantic Council and cooperators identify available information and data gaps while providing insight into ecosystem function. More importantly, the model development process provided a vehicle to identify research necessary to better define populations, fisheries, and their interrelationships. While individual efforts were underway in the South Atlantic, only with significant investment of resources through other programs was a comprehensive regional model further developed.

The current South Atlantic EwE model provides a more complete view of the system and supports potential future evaluations that may be possible with the model. With the model complete and tuned to the available data it can be used to address broad strategic issues and explore “what if” scenarios that could then be used to address tactical decision-making questions such as provide ecosystem context for single species management, address species assemblage questions, and address spatial questions using Ecospace.

A modeling team comprised of FWRI staff, South Atlantic Council staff and other technical experts as needed, will coordinate with members of the original Ecosystem Modeling Workgroup to maintain and further refine the South Atlantic Model.

The Council convened a working group to provide guidance on application of the Ecopath with Ecosim model framework to investigate potential impacts of increased red snapper recruitment on other species in the snapper grouper complex broader South Atlantic Ecosystem. The Working group met in August 2021 to review the model and provide guidance on further development and in September 2021 to review findings and prepare a report for SSC consideration. Results were presented to the SSC in October 2021.

## **VIII. Tools supporting Habitat Conservation and EBFM in the South Atlantic Region**

The South Atlantic Council developed a Habitat Conservation and Ecosystem Management Section which provided access to the FEP II Digital Dashboard and associated tools which is under development with the new website. Florida's FWRI maintains and distributes GIS data, imagery, and documents relevant to habitat conservation and ecosystem-based fishery management in their jurisdiction. Web Services and spatial representations of EFH and other habitat related layers are accessible through the Council's [SAFMC Atlas](#), a platform for searching and visualizing GIS data relevant to the Council's mission and download of GIS layers and information on regional partners is available through the [SAFMC Digital Dashboard](#). The online systems provide access to the following Services:

- i. [South Atlantic Fisheries Webservice](#): Provides access to species distribution and spatial presentation of regional fishery independent data from the Southeast Area Monitoring and Assessment Program (South Atlantic) SEAMAP-SA, the Marine Resources Monitoring, Assessment, and Prediction program (MARMAP), and NOAA Southeast Fishery-Independent Survey (SEFIS).
- ii. [South Atlantic EFH Webservice](#): Provides access to spatial representation of EFH and EFH-HAPCs for South Atlantic Council-managed species and Highly Migratory Species.
- iii. [South Atlantic Managed Areas Service](#): Provides access to spatial presentations of South Atlantic Council and other managed areas in the region.
- iv. [South Atlantic Artificial Reefs Web Application](#): Provides a regional view of artificial reefs locations, contents and imagery associated with programs in the southeastern U.S. overseen by individual states (Florida, Georgia, South Carolina, North Carolina).
- v. South Atlantic [ACCSP Web Map](#) and [Application](#): The web map displays Atlantic Coastal Cooperative Statistics Program (ACCSP) Statistical Areas representing catch and values of Council-managed species across time with the application displaying charts of landings and values for ACCSP Statistical Areas.

## **IX. Ecosystem-Based Action, Future Challenges and Needs**

One of the greatest challenges to enhance habitat conservation and EBFM in the region is funding high priority research, including comprehensive benthic mapping and ecosystem model and management tool development. In addition, collecting detailed information on fishing fleet dynamics including defining fishing operation areas by species, species complex, and season, as well as catch relative to habitat is critical for assessment of fishery, community, and habitat impacts and for South Atlantic Council use in place-based management measures. Additional resources need to be dedicated to expanding regional coordination of modeling, mapping, characterization of species use of habitats, and full funding of regional fishery independent surveys (e.g., MARMAP, SEAMAP, and SEFIS) which are linking directly to addressing high priority management needs. The FEP II Implementation Plan includes Appendix A to highlight research and data needs excerpted from the [SEAMAP 5 Year Plan](#) because they represent short and long-term research and data needs that support EBFM and habitat conservation in the South Atlantic Region.

Development of ecosystem information systems to support South Atlantic Council management should build on existing tools (e.g., Regional Habitat and Ecosystem GIS and Arc Services) and provide resources to regional cooperating partners for expansion to address long-term South Atlantic Council needs. NOAA should support and build on the regional coordination efforts of the South Atlantic Council as it transitions to a broader management approach. Resources need to be provided to collect information necessary to update information supporting FEP II, which support refinement of EFH designations and spatial representations and future EBFM actions. These are the highest priority needs to support habitat conservation and EBFM, the completion of mapping of near-shore, mid-shelf, shelf edge, and deep-water habitats in the South Atlantic region and refinement in the characterization of species use of habitats.

# Appendix E. Alternatives Considered but Rejected

**Action 2.** Revise sector allocations and sector annual catch limits for Atlantic migratory group king mackerel.

**Alternative 2.** Allocate 62.9% of the revised total annual catch limit for Atlantic migratory group king mackerel to the recreational sector. Allocate 37.1% of the revised total annual catch limit for Atlantic migratory group king mackerel to the commercial sector.

**Alternative 4.** Allocate 70.95% of the revised total annual catch limit for Atlantic migratory group king mackerel to the recreational sector. Allocate 29.05% of the revised total annual catch limit for Atlantic migratory group king mackerel to the commercial sector. The allocations are calculated based on MRIP-FES average landings for Atlantic king mackerel for the years 2004 – 2019.

**Alternative 6.** Allocate 72.92% of the revised total annual catch limit for Atlantic migratory group king mackerel to the recreational sector. Allocate 27.08% of the revised total annual catch limit for Atlantic migratory group king mackerel to the commercial sector. The allocations are calculated based on MRIP-FES landings which balanced historical catches (2000-2008) with more recent landings (2017-2019) using the following formula.

*Rationale:* **Alternative 2** was removed from **Action 2** because it was identical to **Alternative 1 (No Action)**. **Alternative 4** and **Alternative 6** were removed because while they utilize years that reflect historic catch, they also include landings from fishing years where there were commercial closures and as a result it may not accurately reflect the commercial sector's fishing capacity.

**Action 5.** Reduce the minimum size limit for recreational harvest of Atlantic migratory group king mackerel.

**Alternative 1 (No Action).** The minimum size limit for recreational harvest of Atlantic migratory group king mackerel is 24-inches fork length.

**Alternative 2.** Reduce the minimum size limit for recreational harvest of Atlantic migratory group king mackerel to 22-inches fork length.

**Alternative 3.** Reduce the minimum size limit for recreational harvest of Atlantic migratory group king mackerel to 20-inches fork length.

**Alternative 4.** Remove the minimum size limit for recreational harvest of Atlantic migratory group king mackerel.

**Action 6.** Reduce the minimum size limit for commercial harvest of Atlantic migratory group king mackerel.

**Alternative 1 (No Action).** The minimum size limit for commercial harvest of Atlantic migratory group king mackerel is 24-inches fork length. Commercial fishermen may possess undersized king mackerel in quantities not exceeding 5 percent, by weight, of the king mackerel on board.

**Alternative 2.** Reduce the minimum size limit for commercial harvest of Atlantic migratory group king mackerel to 22-inches fork length and remove the allowance for commercial fishermen to possess undersized king mackerel in quantities not exceeding 5 percent, by weight, of the king mackerel on board.

**Alternative 3.** Reduce the minimum size limit for commercial harvest of Atlantic migratory group king mackerel to 20-inches fork length and remove the allowance for commercial fishermen to possess undersized king mackerel in quantities not exceeding 5 percent, by weight, of the king mackerel on board.

**Alternative 4.** Remove the minimum size limit for commercial harvest of Atlantic migratory group king mackerel.

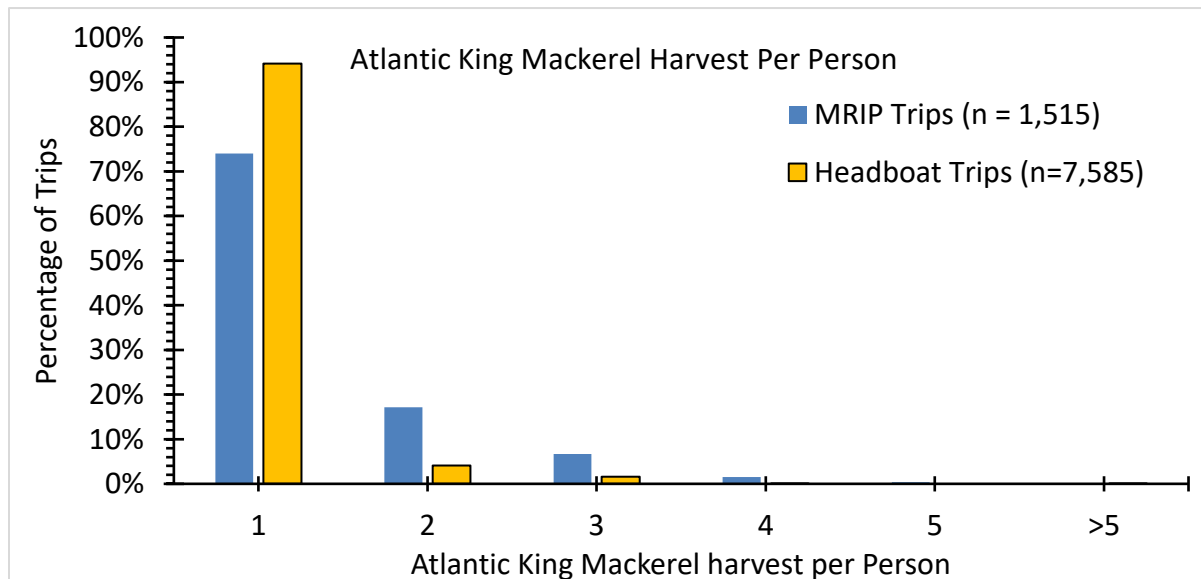
*Rationale:* **Action 5** and **Action 6** were removed from amendment due to comments received during the public hearing phase of amendment development indicating that fishery stakeholders did not want to see a decrease in the minimum size limit for Atlantic king mackerel.

# Appendix F. Atlantic King Mackerel Bag Limit and Size Limit Analysis

## Increased Bag Limit Analysis for Atlantic King Mackerel

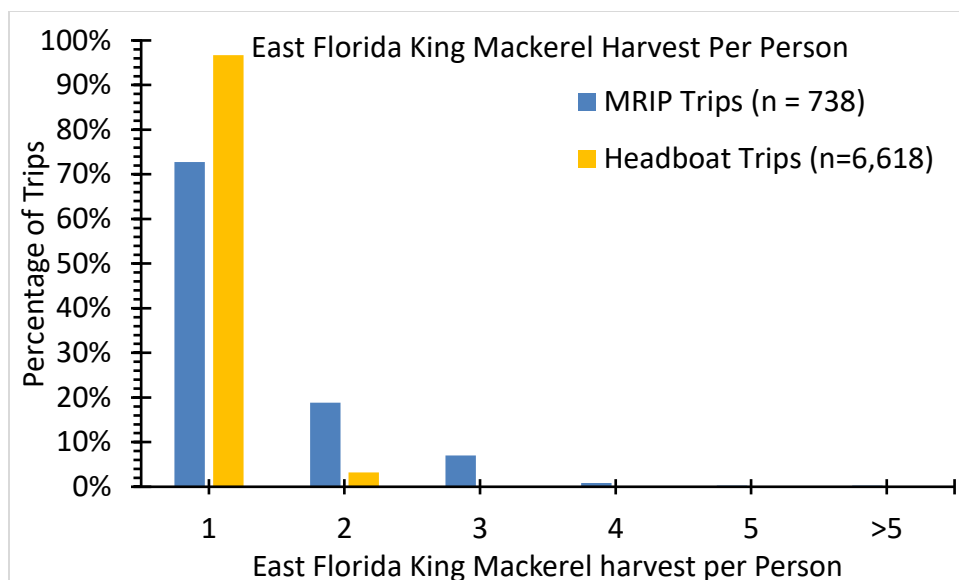
Amendment 34 to the Fishery Management Plan for Coastal Migratory Pelagic Resources in the Gulf of Mexico and Atlantic Region (Amendment 34) is considering increasing the Atlantic migratory group king mackerel recreational bag limit off east Florida. The current east Florida bag limit is 2 fish per person and Amendment 34 is considering increasing the east Florida bag limit to 3 fish per person.

Atlantic recreational datasets from the Marine Recreational Information Program (MRIP) and the Southeast Region Headboat Survey (Headboat) were explored to determine the numbers of king mackerel harvested per angler. MRIP was downloaded from the NOAA fisheries recreational landings website (fisheries.noaa.gov) in September of 2020. Headboat data was provided from the Southeast Fisheries Science Center (SEFSC) in July of 2020. Data from the most recent years of complete data (2017-2019) were used to look at the king mackerel harvest per person. Figure F.1 provides the distribution of the Atlantic king mackerel harvested per angler, and Figure F.2 provides the distribution of the east Florida king mackerel harvested per angler.



**Figure F.1.** Distribution of Atlantic king mackerel harvested per angler from the two recreational datasets (MRIP and Headboat).

Note: The data used are from 2017 through 2019.

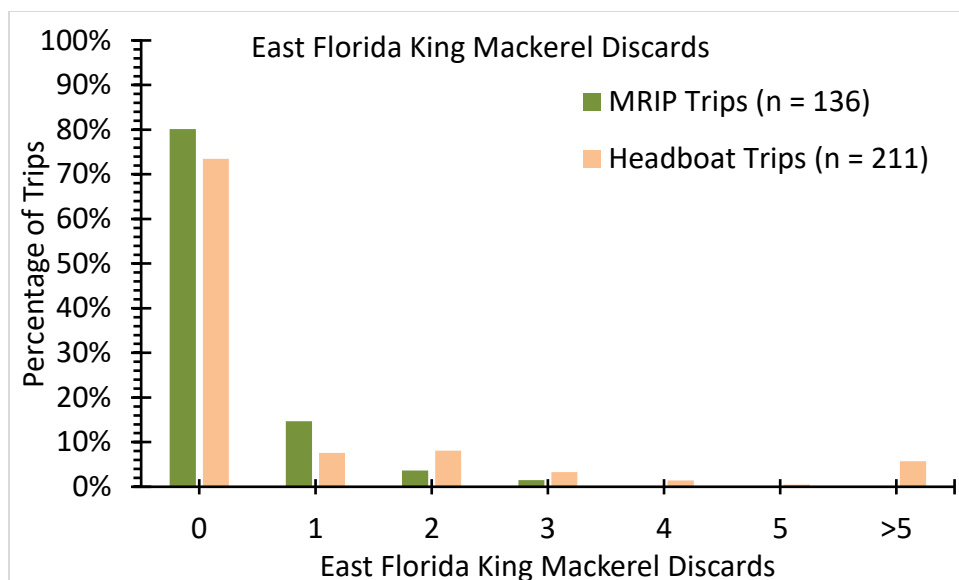


**Figure F.2.** Distribution of East Florida king mackerel per person from the two recreational datasets (MRIP and Headboat).

Note: The data used are from 2017 through 2019.

Increasing the east Florida king mackerel bag limit from 2 to 3 king mackerel per person were analyzed with two different methods that modified the trips that met the current 2 king mackerel per angler bag limit. Trips that harvested less than 2 king mackerel per angler or more than 2 king mackerel per angler were not modified. The first of the two methods assumed that all trips that met the 2-king mackerel per angler bag limit would also meet the 3-king mackerel per person bag limit. The second method isolated the trips that met the 2-king mackerel bag limit and assumed they met the 3-king mackerel bag limit if those trips also had discards of 1 or more king mackerel, respectively. For example, a trip that met the 2-king mackerel bag limit and had at least one discarded king mackerel was analyzed by assuming 3 king mackerel (2 harvested fish plus the 1 discarded fish) were harvested for that trip. It must be noted that the second method assumes discarded king mackerel were only discarded because the bag limit was met. However, these discards could have been released because these fish were below the minimum size limit of 24 inches fork length. The length of the discarded fish is not available, so it is not possible to distinguish if the discards were because the fish was below the minimum size. The distribution of the number of discarded king mackerel for the trips that met the 2 fish bag limit in east Florida are shown in Figure F.3. The calculated percent increase in landings by dataset (MRIP and Headboat) are shown in Table F.1.





**Figure F.3.** Distribution of discarded east Florida king mackerel from MRIP and Headboat data for trips that met the current 2 king mackerel bag limit.

Note: The data used are from 2017 through 2019.

**Table F.1.** Calculated percent increase in east Florida king mackerel recreational landings from increasing the bag limit from 2 to 3 king mackerel per person.

Bag Limit	MRIP	Headboat
Impact on East Florida Recreational Landings		
Method 1		
2 to 3 Fish	19%	3%
Method 2		
2 to 3 Fish	4%	<1%

Note: Percent increase in landings was calculated with two different methods. Method 1 assumes all the trips that met the 2-king mackerel bag limit would also meet the 3-king mackerel bag limit. Method 2 isolated the trips that met the 2-king mackerel bag limit and allowed them to meet the 3-king mackerel bag limit if these trips also had discarded king mackerel.

An overall percent increase in recreational landings was calculated by weighting the percent increase for each dataset by the percentage of landings that dataset contributed to the overall Atlantic king mackerel recreational landings. An Annual Catch Limit recreational landings dataset comprised of MRIP Fishing Effort Survey (FES) landings was provided from the SEFSC on March 2, 2021. The percentage of east Florida king mackerel recreational landings compared to the total Atlantic king mackerel recreational landings from 2017 to 2019 are shown in Table F.2. Additionally, the increase in the bag limit was only for east Florida so the percent increase from the two-method analysis was only applied to the east Florida landings. The overall percent increase from the two methods are shown in Table F.3.

**Table F.2.** Percentages of the total Atlantic king mackerel recreational landings by dataset for the east Florida data.

<b>Data</b>	<b>% of Total Atlantic King Mackerel Recreational Landings</b>
East Florida MRIP	73%
East Florida Headboat	1%

Note: These data used are MRIP FES from 2017 to 2019. The landings are in pounds whole weight and percent of the total Atlantic king mackerel recreational landings.

**Table F.3.** Percent increase in Atlantic king mackerel recreational landings generated from data for the years of 2017 to 2019.

<b>Bag Limit</b>	<b>Method 1</b>	<b>Method 2</b>
2 to 3 Fish in East Florida	14%	3%

Note: The percent increase estimates (Table 1) were modified by weighting the increase in the bag limit for each dataset (Table 2). The weighting was based on the percentage of landings each east Florida dataset contributed to the overall landings from 2017 to 2019 (Table 2). Percent increase in landings was calculated with two different methods. Method 1 assumes all the trips that met the 2 king mackerel bag limit would also meet the 3 king mackerel bag limit. Method 2 isolated the trips that met the 2 king mackerel bag limit and allowed them to meet the 3 king mackerel bag limit if these trips also had discarded king mackerel.

This analysis attempted to predict realistic changes to king mackerel recreational landings by applying increases to the current 2-fish bag limit. Uncertainty exists in these projections, as economic conditions, weather events, changes in catch-per-unit effort, fisher response to management regulations, and a variety of other factors may cause departures from this assumption. The bounds of this uncertainty are not captured by the analysis as currently configured; as such, it should be used with caution as a ‘best guess’ for future dynamics. In addition to the sources of uncertainty, the predicted increase in landings associated with bag limit options assume past performance in the fishery is a good predictor of future dynamics. The analysis constrained the range of data considered to recent years to reduce the unreliability of this assumption.

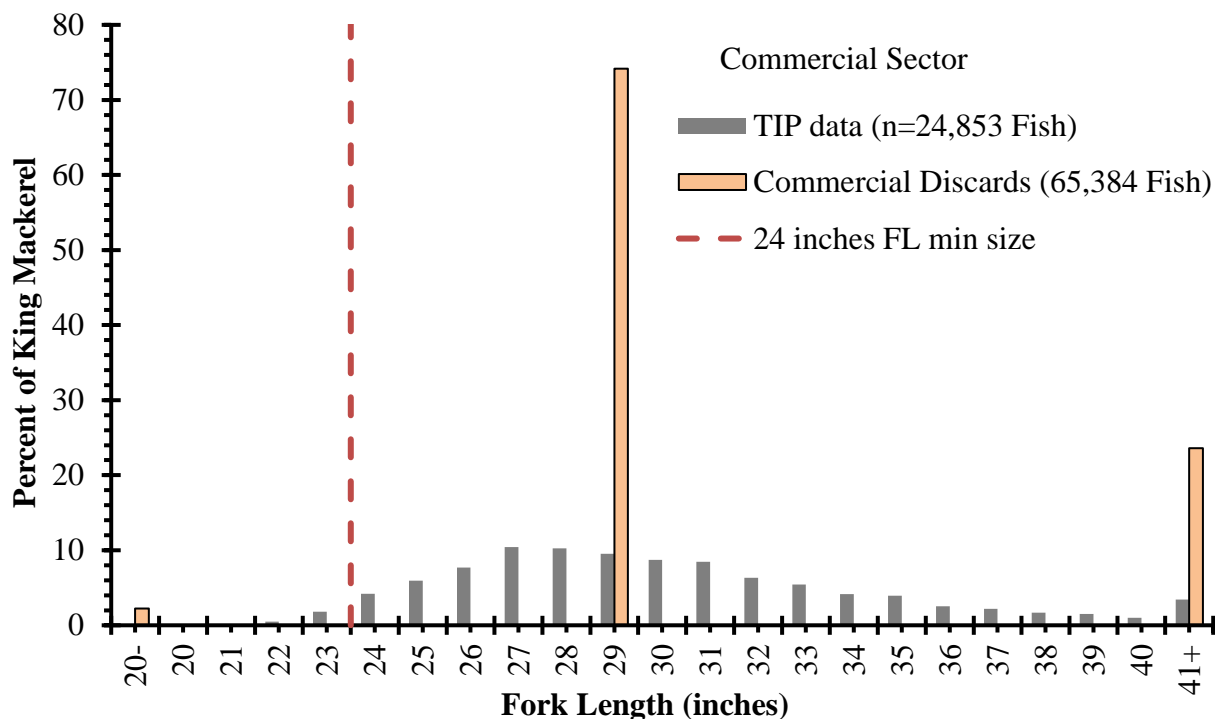
## **Decrease the Size Limit for Atlantic King Mackerel**

Amendment 34 to the Fishery Management Plan for Coastal Migratory Pelagic Resources in the Gulf of Mexico and Atlantic Region (Amendment 34) is considering decreasing the Atlantic migratory group king mackerel commercial and recreational size limit. The current Atlantic migratory group size limit is 24 inches fork length for both the commercial and recreational sector.

### *Commercial Sector*

Length data on harvested and discarded king mackerel from the commercial sector were collected to explore a decrease in the minimum size limit. King mackerel commercial sector harvest data came from the Southeast Fisheries Science Center (SEFSC) Trip Intercept Program (TIP). TIP data comes from dockside commercial intercepts and records the length of all fish harvested on a trip. TIP data was provided from the SEFSC in April of 2021. King mackerel commercial sector discard data came from the SEFSC commercial observer program. The commercial observer program places observers on commercial trips and the observers record the

length of discarded king mackerel. The commercial observer program had a large sample size of discarded king mackerel ( $n = 24,853$  fish), however, the observer program records king mackerel discard lengths in 30 cm size bins (e.g. 30 to 60 cm fork length, 60 to 90 cm fork length). These large size bins were converted to inches and this resulted in discard length data size bins with large 12-inch interval gaps. **Figure F.4** provides the distribution of commercial king mackerel lengths for both the harvested and discarded fish.



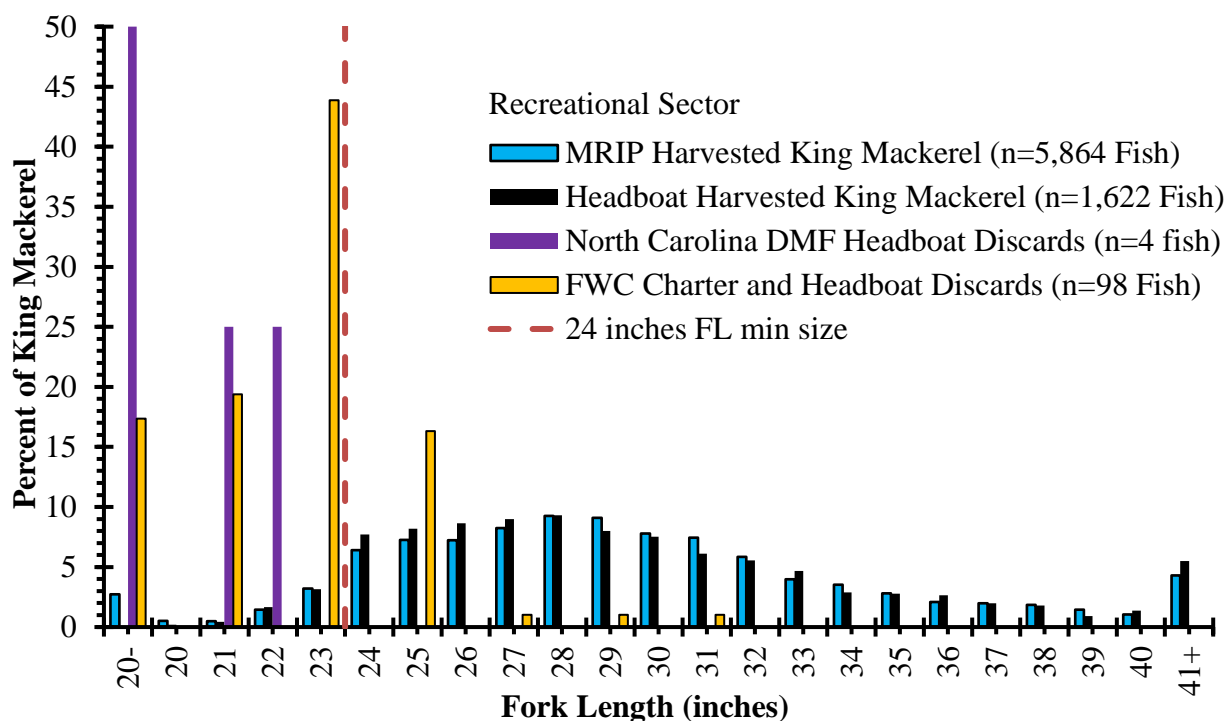
**Figure F.4.** Percent of Atlantic king mackerel lengths in the commercial sector in 1-inch fork length increments by dataset.

Note: Length data came from TIP harvested lengths and commercial observer discard lengths. All of the data came from 2015 through 2020.

The commercial harvest lengths from the TIP data did have some harvest below the 24 inches fork length minimum size. About 2.5% of the TIP lengths were below the minimum size limit. Therefore, there is some harvest of undersized fish, however it's a low percentage (about 2.5%) of the total harvested fish. The discarded lengths also had some lengths below the size limit with 2.2% of the total discarded fish being below the minimum size limit. However, these undersized king mackerel were discarded which is following the current size limit. The median of the discarded king mackerel lengths (about 74%) were about 29 inches fork length suggesting a percentage of legal sized king mackerel are discarded in the commercial sector. However, the discarded king mackerel lengths from the commercial observer program were recorded in large size bins making it difficult to clearly distinguish the percentage of king mackerel lengths discarded that were below and above the minimum size limit. The sparse data available on commercial discards prevent a thorough analysis of the impact on landings from a decrease in size limit.

### Recreational Sector

Length data on harvested and discarded king mackerel from the recreational sector were collected to explore if a decrease in the size limit. King mackerel harvest data came from two different recreational surveys: NOAA's Marine Recreational Information Program (MRIP) and the SEFSC's Southeast Region Headboat Survey (Headboat). Atlantic king mackerel MRIP harvest data from 2015 through 2020 were downloaded from the NOAA fisheries recreational landings website (fisheries.noaa.gov) in April of 2021. Specifically, the MRIP size files were downloaded from the website. Headboat biological profile data were provided from the SEFSC in July of 2020. King mackerel discard data were collected from two different recreational observer projects: North Carolina Department of Marine Fisheries (DMF) and Florida Fish and Wildlife (FWC) observer programs. These two programs place observers on charter and headboat fishing trips to measure the discards. The North Carolina DMF only had king mackerel discards available from headboat trips, but the FWC program had king mackerel discards available from both charter and headboats. Both the North Carolina DMF and the east Florida FWC 2015 to 2020 king mackerel discard data were provided in March of 2020. **Figure E.5** provides the distribution of recreational king mackerel lengths for both harvested and discarded fish.



**Figure F.5.** Percent of Atlantic king mackerel lengths from the recreational sector in 1-inch fork length increments by dataset.

Note: Length data came from MRIP harvested lengths, Headboat harvested lengths, North Carolina DMF headboat discard lengths, and FWC charter and headboat discard lengths. All of the data came from 2015 through 2020.

The recreational harvest lengths from the MRIP and Headboat both had some harvest below the 24 inches fork length minimum size. About 8.3% of the MRIP and 5.4% of the SRHS harvest king mackerel lengths were below the minimum size limit. Therefore, there is some harvest of undersized king mackerel, however it's a low percentage (less than 10%) of the of the total

harvested king mackerel. The discarded lengths also had some length data from king mackerel below the size limit with 100% of the North Carolina DMF lengths below the minimum size limit, but the North Carolina DMF only had a sample of 4 king mackerel. The FWC charter and headboat discards had a sample of 98 fish and about 80% of the discarded lengths were below the minimum size limit. Therefore 20% of the FWC discarded lengths were king mackerel that were above the minimum size limit.

Action 5 of Amendment 34 is considering a reduction in the recreational size limit from 24 inches fork length down to 22 inches, 20 inches, and no minimum size limit. The discarded king mackerel length data from the FWC charter and headboat trips had the majority (about 44%) of the recreational discards at 23 inches fork length and has discarded lengths down to 22 (19% of discard lengths) and 20 inches fork length (17% of discard lengths). This suggests that there are king mackerel being caught at the lengths below the current minimum size limit of 24 inches fork length. Therefore, the decrease in the minimum size limit will likely result in an increase in recreational landings.

# Appendix G. Bycatch Practicability Analysis

## Standardized Bycatch Reporting Requirement

The standardized bycatch reporting methodology (SBRM) for all South Atlantic fisheries proposed in the Final Comprehensive SFA Amendment is to “include reporting requirements as specified in the Atlantic States Cooperative Coastal Statistics Program (ACCSP). National Marine Fisheries Service (NMFS) implemented this SBRM in a final rule published 11/02/99, stating the improved reporting requirements specified in the ACCSP, along with the required commercial logbook reporting expected January 1, 2001, will significantly improve bycatch reporting.

The SBRM for all Gulf of Mexico fisheries proposed in the Generic SFA Amendment is that: 1) MRFS provides information on bycatch in the recreational fisheries, 2) cooperative state-federal programs developed or under development by the Gulf Council are anticipated to provide adequate information on bycatch for all fisheries, and 3) NMFS is developing a bycatch reporting requirement for commercial logbooks (to be implemented about 6 months after the Generic SFA Amendment). NMFS disapproved this SBRM stating that the Gulf Council had not fulfilled the Magnuson-Stevens Act requirement to develop standardized reporting to assess the amount and type of bycatch.

Current SBRM includes: MRIP collects bycatch data from private anglers and for-hire fishermen; SEFSC headboat survey requires collection of bycatch data in electronic logbooks and from observed trips; all commercial fishermen are required to submit logbooks and selected commercial fishermen report bycatch in logbooks (20% of all commercial permit holders within a gear type); and gillnet component of the fishery observed indirectly via the Atlantic Shark observer program.

## Current Bycatch Reporting

Coastal Migratory Pelagics (i.e., king mackerel, Spanish mackerel, and cobia) are managed by a joint permit for the South Atlantic and Gulf. The South Atlantic jurisdiction extends from east Florida to New York. Commercial discards are reported via the supplemental discard logbook program and recreationally via MRIP and the SEFSC headboat survey. Commercial discard data are collected using the Supplemental Discard Logbook that is sent to a 20% stratified random sample of the active commercial permit holders in the fishery. In addition to the number of self-reported discards per trip and gear, the SEFSC Supplemental Discard Logbook attempts to quantify the reason why discarding occurs using four codes.<sup>9</sup> Fishers can specify multiple reasons for a species discarded on the same trip and gear.

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<sup>9</sup> More information on the discard logbook is available here <https://www.fisheries.noaa.gov/about/southeast-fisheries-science-center>.

- 1) Regulation – Not legal size: Animals that would have been sold, however local or federal size limits forbid it.
- 2) Regulation – Out of season: Animals that would have been sold, however the local or federal fishing season is closed.
- 3) Regulation – Other: Animals that would have been sold, however a local or federal regulation other than size or season, forbids it (Other than size or season; i.e., protected species, not properly permitted).
- 4) Market conditions: Animals that have no market value (rotten, damaged).

For the recreational sector, estimates of discards from private recreational and charter fishermen are collected through the Marine Recreational Information Program (MRIP)/Fishing Effort Survey (FES). MRIP/FES replaced MRFSS. The Southeast Region Headboat Survey, which includes limited headboat observer sampling, collects discard information from headboat vessels. There is no commercial observer program for coastal migratory pelagics fishery; however, the gillnet component is observed indirectly via the Atlantic Shark observer program. The U.S. National Bycatch Report (NMFS 2011) indicates there is minimal bycatch associated with pelagic trolling gear that targets the Coastal Migratory Pelagic and Dolphin Wahoo fisheries (Table 4.2.A.8, NMFS 2011).

## **Characteristics of Bycatch**

### *Amount and Type of Bycatch*

#### Commercial Sector

Mean commercial landings (2015-2019) of Gulf CMP species were highest from trolling gear (44%), handline gear (25%), and net gear (18%). Mean commercial landings (2015-2019) of South Atlantic CMP species were highest from trolling (58%) and net gear (39%). Other gear, including handline gear, represent 3% of the South Atlantic CMP landings.

The coastal discard logbook was used to compute discard levels for the coastal migratory pelagics fishery by gear. Assignment to the fishery was based on CMP landings comprising greater than 50% of the reported landings on the trip. The tables below are provided separately for the two regions because observer coverage and management measures for the two regions are determined separately. The Gulf CMP fishery is characterized by low discards of CMP and other species (Table G-1 and Figure G-1). Most discards are from trolling gear. The South Atlantic CMP fisheries are also characterized by relatively low discards for all species (Table G-1 and Figure G-1). The discard levels from gillnet, handline, and trolling gear are roughly equivalent. The ratio of commercial landings to commercial discards is not compared, because commercial landings are reported in pounds and discards are reported in numbers of fish; however, commercial discards appear to be very low relative to landed commercial catch for both regions. Both commercial and recreational discard estimates may differ from stock assessments due to difference in data sources or methodology.

The discard logbook only contains self-reported discards from a 20% sub-sample by region and gear fished; thus, it may not be representative of the entire fishery. Of the four discard codes, not legal size and market conditions was the most common reason selected for CMP species based on the number of self-reported discards depending on the species and region (Table G-2). The

minimum size limit appears to be the primary driver of commercial discards for all CMP species in the Gulf of Mexico and for cobia and Spanish mackerel in the South Atlantic. Market conditions appears to be the primary driver of discards for South Atlantic king mackerel. Commercial harvest in the CMP fisheries results in the occasional bycatch of sea turtles, Atlantic sturgeon, and smalltooth sawfish. The 2015 biological opinion on CMP fisheries describes the best scientific information available on past and present interactions.

**Table G-1.** Top ten species categories with mean estimated commercial discards (#fish) during CMP trips (defined as trips with >50% of landings from CMP stocks), sorted from largest to smallest, by gear, for the 2015-2019 period.

**A. Gulf of Mexico**

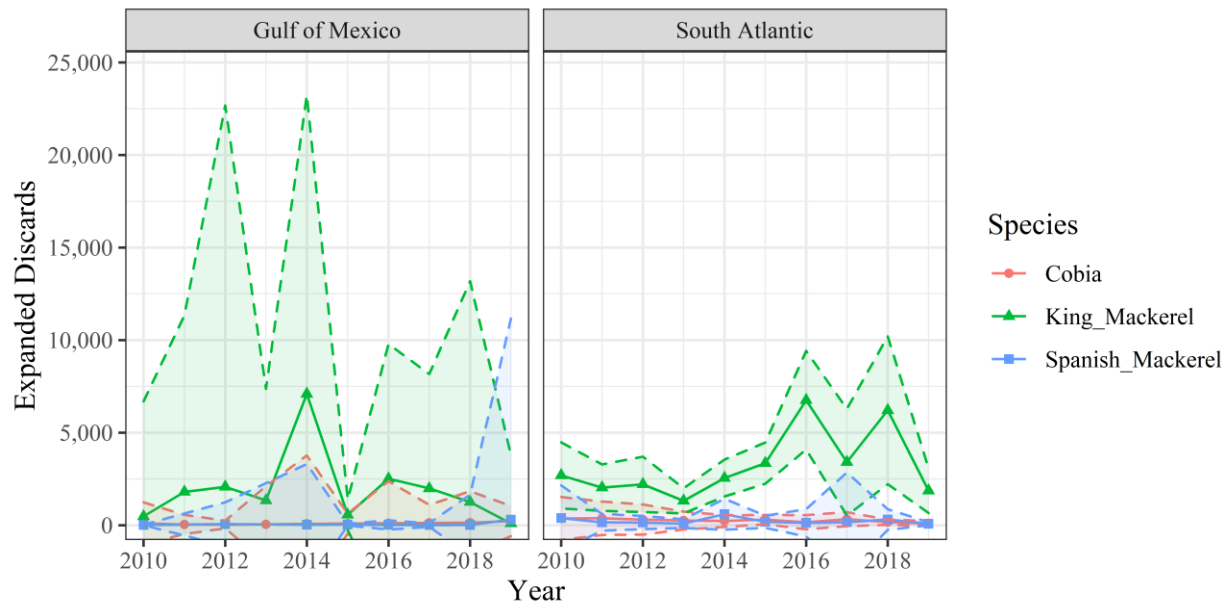
Species Category	Gillnet	Species Category	Handline	Species Category	Trolling
American Shad	272	Red Snapper	136	King Mackerel	725
Sharks Unclassified	108	King Mackerel	128	Crevalle Jack	216
Grass Porgy	74	Spanish Mackerel	94	Red Snapper	141
Sea Catfishes	50	Bluefish	80	Sharks Unclassified	97
Bonnethead Shark	29	Gray Triggerfish	76	Little Tunny	64
Grunts Unclassified	29	Yellow Jack	62	Blacktip Shark	60
Ladyfish	26	Crevalle Jack	58	Cobia	44
Weakfish	25	Blue Runner	47	Red Drum	25
Blacktip Shark	15	Bony Fish Unclassified	24	Amberjacks Unclassified	19
Red Grouper	13	Sharks Unclassified	20	Greater Amberjack	15



## B. South Atlantic

Species Category	Gillnet	Species Category	Handline	Species Category	Trolling
Menhaden	7,117	King Mackerel	1,238	King Mackerel	2,787
Sharks					
Unclassified	337	Red Snapper	527	Sandbar Shark	225
Rudderfish	289	Vermilion Snapper	249	Red Snapper	185
Porgies				Amberjacks	
Unclassified	217	Red Porgy	142	Unclassified	163
Rays Unclassified	206	Black Sea Bas	117	Sharks Unclassified	154
Bony Fish		Sharks		Atlantic Sharpnose	
Unclassified	196	Unclassified	102	Shark	107
Atlantic Sharpnose		Grunts			
Shark	192	Unclassified	101	Barracudas	105
Bluefish	118	Blue Runner	95	Little Tunny	91
Skates					
Unclassified	82	Barracudas	88	Remoras	82
		Snappers			
Sandbar Shark	75	Unclassified	85	Cobia	56

Source: SEFSC Coastal Logbook (accessed May 2020) and Discard Logbook (accessed May 2020).



**Figure G-1.** Annual expanded discard estimates for CMP species (number of fish) by year and region from 2010 through 2019 with 95% confidence interval.

Source: SEFSC Coastal Logbook (accessed May 2020) and Discard Logbook (accessed May 2020).

**Table G-2.** The percentage of unexpanded discards for each discard reason out of the total number of self-reported discards reported to the Supplemental Discard Logbook in the Gulf of Mexico and South Atlantic from 2015 through 2019 for CMP species.

**A. Gulf of Mexico**

Species	Not Legal Size	Out of Season	Other Regulations	Market Conditions
Cobia	78%	0%	13%	8%
King Mackerel	65%	32%	2%	0%
Spanish Mackerel	77%	0%	17%	6%

**B. South Atlantic**

Species	Not Legal Size	Out of Season	Other Regulations	Market Conditions
Cobia	63%	6%	31%	1%
King Mackerel	28%	0%	19%	53%
Spanish Mackerel	90%	0%	9%	1%

Source: SEFSC Supplemental Commercial Discard Logbook (May 2020).

Recreational Sector

From 2015 through 2019, the other most discarded species on trips capturing a CMP species in the Gulf of Mexico was red snapper for headboat and charter modes (Table G-3). From 2015 through 2019, the other most discarded species on trips capturing a CMP species in the South Atlantic was black sea bass for headboat and charter modes (Table G-3). In both regions, tomtate, blue runner, gray triggerfish and Spanish mackerel were in the top ten for most modes. Recreational discards of CMP species are much lower than the landings for most modes of fishing (Table G-4); however, private and charter discards of cobia are relatively high. Across all of the CMP species, the magnitude of private mode discards is much higher compared to the headboat or charter modes.

**Table G-3.** From 2015 through 2019, the top ten species with discards reported on trips capturing a CMP species by recreational mode and region. Species are sorted by number of total discards for each mode from 2015-2019.

**A. Gulf of Mexico**

Rank	HEADBOAT		CHARTER		PRIVATE	
	Species	Discards (N)	Species	Discards (N)	Species	Discards (N)
1	Red Snapper	135,074	Red Snapper	879,641	Spotted Seatrout	10,183,221
2	Gray Triggerfish	102,231	Gray Triggerfish	737,277	Ladyfish	6,469,167
3	Red Grouper	52,792	Spanish Mackerel	399,356	Spanish Mackerel	6,031,247
4	White Grunt	37,405	Red Grouper	354,287	Red Snapper	5,545,785
5	Vermilion Snapper	36,140	Spotted Seatrout	281,654	Gray Snapper	3,165,484
6	Tomtate	26,812	White Grunt	256,977	White Grunt	2,631,791
7	Gag	15,837	Blue Runner	243,670	Hardhead Catfish	2,310,774
8	Black Sea Bass	13,881	Gray Snapper	193,107	Blue Runner	2,034,310
9	Sand Perch	9,956	Hardhead Catfish	190,490	Pinfish	1,982,762
10	Greater Amberjack	8,588	Gag	182,702	Scaled Sardine	1,851,526

Note: Charter and private modes do not include data from LA and TX

## B. South Atlantic

Rank	HEADBOAT		CHARTER		PRIVATE	
	Species	Discards (N)	Species	Discards (N)	Species	Discards (N)
1	Black Sea Bass	324,333	Black Sea Bass	236,568	Spanish Mackerel	3,369,596
2	Vermilion Snapper	185,112	Red Snapper	205,024	Bluefish	3,331,048
3	Tomtate	140,512	Spanish Mackerel	118,850	Black Sea Bass	2,909,537
4	Red Snapper	107,809	Vermilion Snapper	93,064	Red Snapper	2,169,789
5	Gray Triggerfish	64,802	Grunt Family	84,404	Vermilion Snapper	1,232,790
6	Blue Runner	62,187	Blue Runner	78,253	Tomtate	1,113,810
7	Atlantic Sharpnose Shark	43,445	King Mackerel	65,233	Little Tunny	1,093,830
8	Yellowtail Snapper	28,277	Bluefish	64,602	King Mackerel	1,058,777
9	Mutton Snapper	28,075	Tomtate	57,117	Blue Runner	935,603
10	Red Porgy	22,821	Greater Amberjack	55,667	Gray Triggerfish	803,369

Sources: MRIP FES survey data available at <https://www.fisheries.noaa.gov/recreational-fishing-data/recreational-fishing-data-downloads>; Headboat data from SEFSC Headboat Logbook CRNF files (expanded; July 2020).

**Table G-4.** CMP headboat, charter, and private mean annual estimates of landings and discards (2015-2019) by region.

### A. Gulf of Mexico

Species	HEADBOAT			CHARTER			PRIVATE		
	Landings (N)	Discards (N)	Ratio (D:L)	Landings (N)	Discards (N)	Ratio (D:L)	Landings (N)	Discards (N)	Ratio (D:L)
Cobia	618	254	41%	6,196	6,909	112%	58,902	145,552	247%
King Mackerel	9,655	153	2%	120,167	35,690	30%	325,221	159,107	49%
Spanish Mackerel	2,438	98	4%	249,887	79,871	32%	1,173,804	1,208,243	103%

### B. South Atlantic

Species	HEADBOAT			CHARTER			PRIVATE		
	Landings (N)	Discards (N)	Ratio (D:L)	Landings (N)	Discards (N)	Ratio (D:L)	Landings (N)	Discards (N)	Ratio (D:L)
Cobia	929	1,184	127%	5,267	5,188	98%	78,432	106,211	135%
King Mackerel	10,658	1,503	14%	84,702	13,047	15%	489,817	211,757	43%
Spanish Mackerel	6,308	1,059	17%	131,520	23,769	18%	846,372	673,919	80%

Sources: MRIP FES data from SEFSC Recreational ACL Dataset (September 2020); Headboat data from SEFSC Headboat Logbook CRNF files (expanded; July 2020).

Note: Headboat and MRIP (charter and private) landings and discards are in numbers of fish

## Importance of Bycatch in Estimating Fishing Mortality and Effect of Bycatch on Ecosystems

The ecological effects of bycatch mortality are the same as fishing mortality from directed fishing efforts. If not properly managed and accounted for, either form of mortality could potentially reduce stock biomass to an unsustainable level. Release mortality rates for the CMP

fishery are widely variable depending on species and fishing mode ranging from 5% for cobia in the Gulf of Mexico to 100% for the South Atlantic king mackerel commercial gillnet fishery (Table G-5).

**Table G-5.** Release mortality rates of CMP species from recent assessments.

Species	Region	Fishery	Release mortality	Data Source
Cobia	Gulf of Mexico	Recreational	5%	SEDAR 28 Update (2019)
Cobia	Gulf of Mexico	Commercial	5%	SEDAR 28 Update (2019)
Cobia	South Atlantic	Recreational	5%	SEDAR 58 (2020)
Cobia	South Atlantic	Commercial Vertical Line	5.6%	SEDAR 58 (2020)
Cobia	South Atlantic	Commercial Gill Net	55%	SEDAR 58 (2020)
King Mackerel	Gulf of Mexico & South Atlantic	Recreational Private & Charter	20%	SEDAR 38 Update (2020)
King Mackerel	Gulf of Mexico & South Atlantic	Recreational Headboat	22%	SEDAR 38 Update (2020)
King Mackerel	Gulf of Mexico	Commercial Handline	25%	SEDAR 38 Update (2020)
King Mackerel	South Atlantic	Commercial Handline	20%	SEDAR 38 Update (2020)
King Mackerel	South Atlantic	Commercial Gillnet	100%	SEDAR 38 Update (2020)
Spanish Mackerel	Gulf of Mexico & South Atlantic	Recreational	20%	SEDAR 28 (2013)
Spanish Mackerel	Gulf of Mexico & South Atlantic	Commercial Handline	10%	SEDAR 28 (2013)

## Practicability of Management Measures in Directed Fisheries Relative to their Impact on Bycatch and Bycatch Mortality

### *Expected Impacts on Bycatch for the Subject Amendment Actions*

Actions 1-3 would revise the acceptable biological catch (ABC), total and sector annual catch limits (ACL), annual optimum yield (OY), allocations, and recreational annual catch target for Atlantic king mackerel, respectively. When compared to **Alternative 1 (No Action)**, increasing the total ACL for Atlantic king mackerel under the each of the alternatives for Action 1 could result in fewer discards since fewer fish would need to be returned back to the water. These effects also apply to Actions 2 and 3 when compared with their respective No Action alternative. However, because neither sector has harvested their respective ACLs: since 2012 for the recreational sector, and since 2000 for the commercial sector, the total ACL has not been met. Therefore, effects on discards from Actions 1-3 are expected to be neutral. Additionally, the Joint Generic Dealer Reporting Amendment implemented in 2014 (GMFMC and SAFMC, 2013b), has

increased the required reporting frequency for dealers to once per week, and requires a single dealer permit for all finfish dealers in the Southeast Region. Furthermore, the Joint Generic Charter/Headboat Reporting Amendment (Amendment 22 to the CMP FMP, GMFMC and SAFMC 2013c), also implemented in 2014, requires all federally permitted headboats in the South Atlantic to report landings information electronically and on a weekly basis. The new Commercial Landings Monitoring system and actions in the Joint Generic Dealer Reporting and Amendment 22 have provided more timely and accurate data reporting and have reduced the incidence of quota overages and management uncertainty. Improvements to recreational reporting requirements through the implementation of electronic reporting for for-hire vessels (Amendment 39 to the Snapper Grouper FMP, 2017), is expected to contribute to better recreational landings data and closure estimates.

Action 4 would increase the recreational bag and possession limit for Atlantic king mackerel in the EEZ off the east coast of Florida. When compared to **Alternative 1 (No Action)**, increasing the bag limit of Atlantic king mackerel under **Preferred Alternative 2** could result in fewer discards since fewer fish would need to be returned to the water. However, since the majority of anglers are currently only retaining one fish per person (Figures 4.4.1 and 4.4.2), increasing the bag limit under **Preferred Alternative 2** would be expected to have minimal effects on discards.

Action 5 would modify the recreational requirement for Atlantic king mackerel and Spanish mackerel to be landed with heads and fins intact. Currently, commercial fishermen are allowed to possess cut or damaged fish, generally caused by shark depredation, that meet minimum size limits; however, the recreational sector may not. Under **Preferred Alternative 2** and its sub-alternatives, cut or damaged Atlantic king mackerel and Atlantic Spanish mackerel caught under the recreational bag limit that comply with the minimum size limits, may be possessed, and offloaded ashore. Allowing possession of damaged Atlantic king mackerel or Atlantic Spanish mackerel under **Preferred Sub-alternatives 2a** and **2b**, respectively, could be expected to minimally increase harvest, while reducing the number of discarded fish. However, since fish in such a state are expected to be dead discards, the biological effects to the stock from discards and fish removal are neutral. Additionally, in terms of the risk of overfishing, biological effects of **Preferred Alternative 2** and its sub-alternatives would be neutral compared to **Alternative 1 (No Action)** since harvest is limited to bag limits and by the sector ACL, and AMs are in place to reduce the chances of any overages.

## Ecological Effects Due to Changes in the Bycatch

The ecological effects of bycatch mortality are the same as fishing mortality from directed fishing efforts. If not properly managed and accounted for, either form of mortality could potentially reduce stock biomass to an unsustainable level. The Gulf Council, South Atlantic Council, and NMFS are in the process of developing actions that would improve bycatch monitoring in all fisheries including the CMP fishery. For example, the Joint South Atlantic/Gulf of Mexico Generic Charter/Headboat Reporting in the South Atlantic Amendment (Charter/Headboat Amendment), which became effective on January 7, 2014, requires weekly electronic reporting of landings and bycatch data for headboats in the South Atlantic. A similar framework action to require electronic reporting of landings and bycatch by headboats in the

Gulf became effective on March 5, 2014. A generic amendment that requires weekly electronic reporting of commercial landings by dealers in the Gulf and South Atlantic became effective on August 7, 2014. The Gulf and South Atlantic Councils are developing amendments that would require electronic reporting of commercial logbook data, which would include landed and discarded fish. Better bycatch and discard data would provide a better understanding of the composition and magnitude of catch and bycatch, enhance the quality of data provided for stock assessments, increase the quality of assessment output, provide better estimates of interactions with protected species, and lead to better decisions regarding additional measures to reduce bycatch. Management measures that affect gear and effort for a target species can influence fishing mortality in other species. Therefore, enhanced catch and bycatch monitoring would provide better data that could be used in multi-species assessments.

Ecosystem interactions among CMP species in the marine environment are poorly known. The three species are migratory, interacting in various combinations of species groups at different levels on a seasonal basis. With the current state of knowledge, it is difficult to evaluate the potential ecosystem-wide impacts of these species interactions, or the ecosystem impacts from the limited mortality estimated to occur from mackerel fishing effort. However, there is very little bycatch in the Spanish mackerel portion of the CMP fishery with gillnet gear, and the king mackerel portion of the CMP fishery is also associated with a low level of bycatch. Amendment 34 would not modify the gear types or fishing techniques in the CMP fishery. Therefore, ecological effects due to changes in bycatch in the CMP fishery are likely to remain very low if implemented. For more details on ecological effects, see Chapters 3 and 4 of the amendment.

## **Changes in the Bycatch of Other Fish Species and Resulting Population and Ecosystem Effects**

Actions in Amendment 34 are not expected to affect bycatch of other non-mackerel fish species. Only a small percentage of total landings in the mackerel and cobia components of the CMP fishery are non-targeted species.

## **Effects on Marine Mammals and Birds**

Under Section 118 of the Marine Mammal Protection Act (MMPA), NMFS must publish, at least annually, a List of Fisheries that places all U.S. commercial fisheries into one of three categories based on the level of incidental serious injury and mortality of marine mammals that occurs in each fishery. The final 2022 List of Fisheries classifies the Gulf and South Atlantic coastal migratory pelagic hook-and-line fishery as a Category III fishery (87 FR 23122; April 19, 2022). Category III designates fisheries with a remote likelihood or no known serious injuries or mortalities. The Gulf and South Atlantic coastal migratory pelagic gillnet portion of the CMP fishery is classified as Category II fishery. This classification indicates an occasional incidental mortality or serious injury of a marine mammal stock resulting from the fishery (1-50 % annually of the potential biological removal). The gillnet portion of the CMP fishery has no documented interaction with marine mammals; NMFS classifies gillnet portion of the CMP

fishery as Category II based on analogy (similar risk to marine mammals) with other gillnet fisheries.

The Bermuda petrel and roseate tern occur within the action area. Bermuda petrels are occasionally seen in the waters of the Gulf Stream off the coasts of North Carolina and South Carolina during the summer. Sightings are considered rare and only occurring in low numbers (Alsop 2001). Roseate terns occur widely along the Atlantic coast during the summer but in the southeast region, they are found mainly off the Florida Keys (unpublished USFWS data). Interaction with fisheries has not been reported as a concern for either of these species.

Fishing effort reductions have the potential to reduce the amount of interactions between the fishery and marine mammals and birds. Although, the Bermuda petrel and roseate tern occur within the action area, these species are not commonly found and neither has been described as associating with vessels or having had interactions with the CMP fishery. Thus, it is believed that the CMP fishery is not likely to negatively affect the Bermuda petrel and the roseate tern.

Atlantic Spanish mackerel are among the species targeted with gillnet in North Carolina state waters. Observer coverage for gillnet is up to 10% and provided by the North Carolina Division of Marine Fisheries, primarily during the fall flounder fishery in Pamlico Sound. Gillnets are also used from the North Carolina/South Carolina border and south and east of the fishery management council demarcation line between the Atlantic Ocean and the Gulf of Mexico. In this area gillnets are used to target finfish including, but not limited to king mackerel, Spanish mackerel, whiting, bluefish, pompano, spot, croaker, little tunny, bonita, jack crevalle, cobia, and striped mullet. The majority of fishing effort occurs in federal waters because South Carolina, Georgia, and Florida prohibit the use of gillnets, with limited exceptions, in state waters.

There is some observer coverage of CMP targeted trips by vessels with an active directed shark permit. The Shark Gillnet Observer Program is mandated under the Atlantic Highly Migratory Species FMP, the Atlantic Large Whale Take Reduction Plan (50 CFR Part 229.32), and the Biological Opinion for the Continued Authorization of the Atlantic Shark Fishery under Section 7 of the Endangered Species Act. Observers are deployed on any active fishing vessel reporting shark drift gillnet effort. In 2005, this program also began to observe sink gillnet fishing for sharks along the southeastern U.S. coast.

The shark gillnet observer program now covers all anchored (sink, stab, set), strike, or drift gillnet fishing by vessels that fish from Florida to North Carolina year-round. The observed fleet includes vessels with an active directed shark permit and fish with sink gillnet gear.

## **Changes in Fishing, Processing, Disposal, and Marketing Costs**

It is likely that all states within the Atlantic king mackerel management area (New York, Connecticut, Rhode Island state line to the Miami-Dade/Monroe County boundary, Florida) would be affected by the regulations associated with actions in Amendment 34. However, the methods of fishing, processing, disposal, and marketing are not expected to change.

Both Councils are considering options to enhance current data collection programs in future amendments, such as implementing electronic commercial logbook reporting. This might provide more insight in calculating the changes in fishing, processing, disposal, and marketing costs. See Chapter 4 for a complete description of how the CMP fishery and the species would be impacted by the proposed actions.

## **Changes in Research, Administration, and Enforcement Costs and Management Effectiveness**

All actions in Amendment 34 would affect some measure of change in research, administration, and enforcement costs and management effectiveness. See Chapter 4 of this amendment for more details.

Research and monitoring is ongoing to understand the effectiveness of proposed management measures and their effect on bycatch. In 1990, the SEFSC initiated a logbook program for vessels with federal permits in the snapper grouper fishery from the Gulf of Mexico and South Atlantic. In 1999, logbook reporting was initiated for vessels catching king and Spanish mackerel (Gulf and South Atlantic Councils). The Dolphin and Wahoo FMP required logbook reporting by fishermen with Commercial Atlantic Dolphin/Wahoo Permits. Approximately 20% of commercial fishermen from snapper grouper, dolphin wahoo, and CMP fisheries are asked to fill out discard information in logbooks; however, a greater percentage of fishermen could be selected with emphasis on individuals that dominate landings. Recreational discards are obtained from the MRIP and logbooks from the NMFS headboat program.

The Charter/Headboat Amendment, which became effective on January 7, 2014, requires electronic reporting for headboats each week for the snapper grouper, dolphin wahoo, and CMP fisheries in the Atlantic. A similar amendment became effective on March 5, 2014 to require weekly electronic reporting for headboats for the reef fish and CMP fisheries in the Gulf. Some observer information for the snapper grouper fishery has been provided by the SEFSC, Marine Fisheries Initiative, and Cooperative Research Programs (CRP), but more is desired for the snapper grouper, dolphin wahoo, reef fish, and CMP fisheries. An observer program is in place for headboats in the southeast for the snapper grouper, reef fish, dolphin wahoo, and CMP fisheries. Observers in the NMFS Headboat survey collect information about numbers and total weight of individual species caught, total number of passengers, total number of anglers, location fished (identified to a 10 mile by 10 mile grid), trip duration (half,  $\frac{3}{4}$ , full or multiday trip), species caught, and numbers of released fish with their disposition (dead or alive). The headboat survey does not collect information on encounters with protected species. At the September 2012 South Atlantic Council meeting, the SEFSC indicated that observers are placed on about 2% of the headboat trips out of South Carolina to Florida, and about 9% of the headboat trips out of North Carolina (<https://safmc.net/december-2012-briefing-book/>).

Cooperative research projects between science and industry are being used to a limited extent to collect bycatch information from fisheries in the Gulf and South Atlantic. Research funds for observer programs, and gear testing and testing of electronic devices are also available each year in the form of grants from the Gulf and South Atlantic Foundation, Marine Fisheries Initiative,



Saltonstall-Kennedy program, and the CRP. Efforts are made to emphasize the need for observer and logbook data in requests for proposals issued by granting agencies. A condition of funding for these projects is that data are made available to the Councils and NMFS upon completion of a study.

Stranding networks have been established in the Southeast Region. The NMFS SEFSC is the base for the Southeast United States Marine Mammal Stranding Program (<https://www.fisheries.noaa.gov/national/marine-life-distress/marine-mammal-health-and-stranding-response-program>). NMFS authorizes organizations and volunteers under the MMPA to respond to marine mammal stranding events throughout the United States. These organizations form the stranding network whose participants are trained to respond to, and collect samples from live and dead marine mammals that strand along southeastern United State beaches. The SEFSC is responsible for: coordinating stranding events; monitoring stranding rates; monitoring human caused mortalities; maintaining a stranding database for the southeast region; and conducting investigations to determine the cause of unusual stranding events including mass stranding events and mass mortalities.

The Southeast Regional Office and the SEFSC participate in a wide range of training and outreach activities to communicate bycatch related issues. The NMFS Southeast Regional Office issues public announcements, Southeast Fishery Bulletins, or News Releases on different topics, including use of turtle exclusion devices, bycatch reduction devices, use of methods and devices to minimize harm to turtles and sawfish, information intended to reduce harm and interactions with marine mammals, and other methods to reduce bycatch for the convenience of constituents in the southern United States. These are mailed out to various organizations, government entities, commercial interests and recreational groups. This information is also included in newsletters and publications that are produced by NMFS and the various regional fishery management councils. Announcements and news releases are also available on the internet and broadcasted over NOAA weather radio.

Additional administrative and enforcement efforts would help to implement and enforce fishery regulations. The NMFS established the South East Fishery-Independent Survey in 2010 to strengthen fishery-independent sampling efforts in southeast U.S. waters, addressing both immediate and long-term fishery-independent data needs, with an overarching goal of improving fishery-independent data utility for stock assessments. Meeting these data needs is critical to improving scientific advice to the management process, ensuring overfishing does not occur, and successfully rebuilding overfished stocks on schedule.

## **Changes in the Economic, Social, or Cultural Value of Fishing Activities and Non-Consumptive Uses of Fishery Resources**

Proposed management measures, and any changes in economic, social, or cultural values are discussed in Chapter 4 of Amendment 34. Further analysis can be found in the Regulatory Impact Review and Regulatory Flexibility Act Analysis of the amendment.

## **Changes in the Distribution of Benefits and Costs**

The distribution of benefits and costs expected from actions in Amendment 34 are discussed in the amendment.

## **Social Effects**

The social effects of all the measures are described in detail in Chapter 4 of Amendment 34.

## **Conclusion**

This section evaluates the practicability of taking additional action to minimize bycatch and bycatch mortality using the ten factors provided at 50 CFR 600.350(d)(3)(i). In summary, measures proposed in Amendment 34 address issues associated with the new stock assessment for Atlantic king mackerel (SEDAR 38 Update assessment (2020)). None of the actions in this amendment are expected to significantly increase or decrease the magnitude of bycatch or bycatch mortality in the CMP fishery. Both sectors of the CMP fishery have relatively low baseline levels of bycatch, which are not expected to change as a result of implementation of this amendment. No additional action is needed to further minimize bycatch in the CMP fishery.

### **References:**

Alsop, III, F. J. 2001. Smithsonian Handbooks: Birds of North America eastern region. DK Publishing, Inc. New York, NY.

# Appendix H. Fishery Impact Statement

The Magnuson-Stevens Fishery Conservation and Management Act requires a Fishery Impact Statement (FIS) be prepared for all amendments to fishery management plans (FMP). The FIS contains an assessment of the expected and potential biological, economic, and social effects of the conservation and management measures on: 1) fishery participants and their communities; 2) participants in the fisheries conducted in adjacent areas under the authority of another Council; and 3) the safety of human life at sea. Detailed discussion of the expected effects for all proposed changes is provided in Chapters 1 and 2. The FIS provides a summary of these effects.

## **Actions Contained in Amendment 34 to the FMP for the Coastal Migratory Pelagics (CMP) Fishery of the South Atlantic Region (Amendment 34)**

Amendment 34 would modify management of Atlantic migratory king mackerel and Spanish mackerel. Actions include actions to update the Atlantic migratory group king mackerel (Atlantic king mackerel) acceptable biological catch (ABC), annual catch limits (ACL), recreational annual catch targets (ACT) and sector allocations based on the SEDAR 38 Update assessment (2020). Additionally, Amendment 34 to the CMP FMP proposes changes to management measures for Atlantic king mackerel and Atlantic migratory group Spanish mackerel (Atlantic Spanish mackerel). The actions and their preferred alternatives are:

**Action 1.** Revise the acceptable biological catch, total annual catch limit and annual optimum yield for Atlantic migratory group king mackerel.

- **Preferred Alternative 3.** Revise the acceptable biological catch, total annual catch limit and annual optimum yield for Atlantic migratory group king mackerel, based on the acceptable biological catch recommendation from the South Atlantic Fishery Management Council's Scientific and Statistical Committee. The total annual catch limit and annual optimum yield are equal to 95% of the **recommended** acceptable biological catch level. The recommended acceptable biological catch level is inclusive of recreational estimates from the Marine Recreational Information Program's Fishing Effort Survey.

**Action 2.** Revise sector allocations and sector annual catch limits for Atlantic migratory group king mackerel.

- **Preferred Alternative 1 (No Action).** Retain the current recreational sector and commercial sector allocations of 62.9% and 37.1%, respectively, of the revised total annual catch limit for Atlantic migratory group king mackerel. Apply these percentages to the revised total annual catch limit.

**Action 3.** Revise the recreational annual catch target for Atlantic migratory group king mackerel

- **Preferred Alternative 1 (No Action).** Revise the recreational annual catch target to reflect the updated recreational annual catch limit level. The recreational annual catch target equals sector ACL[(1-PSE) or 0.5, whichever is greater].

**Action 4.** Increase the recreational bag and possession limit for Atlantic migratory group king mackerel in the exclusive economic zone off the east coast of Florida.

- **Preferred Alternative 2.** Increase the daily bag limit for Atlantic migratory group king mackerel to three fish per person in the exclusive economic zone off the east coast of Florida.

**Action 5.** Modify the recreational requirement for Atlantic migratory group king mackerel and Spanish mackerel to be landed with heads and fins in intact.

- **South Atlantic Council Preferred Alternative 2.** Cut-off (damaged) fish caught under the recreational bag limit, that comply with the minimum size limits, may be possessed, and offloaded ashore.
  - **South Atlantic Council Preferred Sub-alternative 2a.** Atlantic migratory group king mackerel.
  - **South Atlantic Council Preferred Sub-alternative 2b.** Atlantic migratory group Spanish mackerel

### **Assessment of Biological Effects**

The preferred alternatives for the actions in Amendment 34 are expected to address updated scientific information provided by an update to SEDAR 38 (Update 2020). The preferred alternatives are based on the best scientific information available and are designed to constrain harvest of Atlantic king mackerel to the new ACLs, while increasing social and economic benefits through sustainable and profitable harvest of Atlantic migratory group king and Spanish mackerel; thus, the actions would likely have beneficial effects to the Atlantic king mackerel stock.

Atlantic king mackerel are often harvested incidentally when fishing for other CMP species, with relatively low discards for all species. Substantial changes in fishing effort or behavior are not expected as a result of this amendment, thus the proposed actions would not be expected to result in any biological effects, positive or negative, on co-occurring species (BPA, Appendix G). The proposed actions would not change fishing methods for CMP species in the U.S. exclusive economic zone, and therefore would perpetuate the existing level of risk for interactions between Endangered Species Act listed species and the fishery. Thus, there is likely to be no additional effects, positive or negative, to protected species from the actions.

### **Assessment of Economic Effects**

In general, ACLs that allow for more fish to be landed can result in increased positive economic effects if harvest increases without notable effects on the stock of a species. The ACL does not directly impact the fishery for a species unless harvest changes, fishing behavior changes, or the ACL is exceeded, thereby potentially triggering accountability measures (AM) such as harvest closures or other restrictive measures. As such, ACLs that are set above observed landings in a fishery for a species and do not change harvest or fishing behavior may not have realized economic effects each year. Nevertheless, ACLs set above observed average harvest levels, such as those in Action 1, do create a gap between the ACL and typical landings that may be utilized in years of exceptional abundance or accessibility of a species, thus providing the opportunity for increased landings and a reduced likelihood of triggering restrictive AMs. As such there are potential economic benefits from ACLs that allow for such a gap. When examining sector

allocations of the revised total ACL (Action 2), the revised sector allocations for king mackerel would increase net economic benefits for both the commercial and recreational sectors.

The purpose of ACTs is to help prevent a sector from exceeding its ACL due to management uncertainty. Exceeding an ACL would have direct negative economic effects on all sectors potentially due to a reduced stock size. In the case of Atlantic king mackerel, the ACT is part of the recreational post-season AM. If recreational landings exceed the ACL, and the sum of the commercial and recreational landings exceed the stock ACL, a reduced bag limit would be implemented the following year by the amount necessary to ensure the recreational landings may achieve the recreational ACT, but do not exceed the recreational ACL. However, harvest is not limited to the ACT, thus there are no direct economic effects from Action 3 but there may be indirect effects if a reduced bag limit that is geared towards achieving the ACT rather than the ACL results in additional decreased harvest of king mackerel. The more that harvest is restricted, the greater the loss in consumer surplus (CS) received from such harvest and thus negative economic effects.

Generally, angler satisfaction increases with the number of fish that can be harvested on a trip. As such, an increase in the bag limit in Action 4 would lead to higher angler satisfaction from a recreational trip, likely resulting in higher overall net economic benefits. Allowing possession of damaged Atlantic king mackerel or Spanish mackerel (Action 5) would increase harvest, which would provide positive direct economic effects for the recreational sector by allowing the possession of fish that would have previously been discarded. Additionally, since fish in such a state do not survive release, there are no net effects for the stock. In general, an increase in overall harvest would increase net economic benefits, as measured in CS, incurred from such harvest.

### **Assessment of the Social Effects**

The ACL (Action 1) for any stock does not directly affect resource users unless the ACL is met or exceeded, in which case AMs that restrict, or close harvest could negatively impact the commercial, for-hire, and private recreational sectors. While the negative effects are usually short-term, they may at times induce other indirect effects through changes in fishing behavior or business operations that could have long-term social effects, such as increased pressure on another species, or fishermen having to stop fishing altogether due to regulatory closures. Generally, the higher the ACL the greater the short-term social benefits that would be expected to accrue if harvest is sustainable.

Revising sector allocations (Action 2) for the recreational and commercial sectors can result in many different social effects as perceptions are formed. Based on recent commercial and recreational landings, none of the proposed commercial or recreational ACLs are expected to be met, resulting in triggering of the AMs and both the recreational and commercial sectors will see an increase in available poundage.

For Atlantic king mackerel the recreational ACT (Action 3) may result in negative social impacts in the short term due to reductions in harvest thresholds that may cause changes in fishing behavior. However, there would be long-term social benefits for fishermen, communities, and the public by preventing overfishing through an ACT for a stock that has potential to exceed the

ACL. Those benefits would include more fishing opportunities and increased income, which should benefit the coastal economy and contribute to community resilience for those involved in these fisheries.

Modifying the recreational harvest limits (Action 4) would be associated with the biological costs of each alternative, as well as the effects on current recreational fishing opportunities. In general, benefits to the recreational sector would result from harvest limits that do not result in restricted access to Atlantic king mackerel (i.e., because an AM is triggered) but still maintain harvest limits large enough to have minimal effect on recreational trip satisfaction. Increasing the recreational bag limit in federal waters off Florida would create consistency in recreational bag limit in federal waters throughout the Atlantic king mackerel management range when which would be expected to reduce confusion among fishermen and aid in compliance.

Commercial and recreational have reported increasing interactions with sharks or barracudas resulting in king and Spanish mackerel having their tails bitten off by before they can be landed. Allowing possession of damaged Atlantic king mackerel or Spanish mackerel would allow cut-fish not to be wasted which would provide positive social effects for the recreational sector. Additionally, this provision would directly address stakeholder concerns regarding damaged fish and may improve stakeholder perceptions of the management process.

#### **Assessment of Effects on Safety at Sea**

Amendment 34 is not expected to result in direct impacts to safety at sea.

# Appendix I. History of Management

The Fishery Management Plan for Coastal Migratory Pelagic Resources in the Gulf of Mexico and South Atlantic Region (CMP FMP; GMFMC/SAFMC 1982), with an environmental impact statement (EIS), was approved in 1982 and implemented by regulations effective in February 1983. Managed species included king mackerel, Spanish mackerel, and cobia. The CMP FMP treated king and Spanish mackerel as unit stocks in the Atlantic and Gulf of Mexico (Gulf). The CMP FMP established allocations for the recreational and commercial sectors harvesting these stocks, and the commercial allocations were divided between net and hook-and-line fishermen.

## CMP FMP Amendments

**Amendment 1**, with EIS, implemented in September 1985, provided a framework procedure for pre-season adjustment of total allowable catch (TAC), revised the estimate of king mackerel maximum sustainable yield (MSY) downward, recognized separate Atlantic and Gulf migratory groups of king mackerel, and established fishing permits and bag limits for king mackerel. Commercial allocations among gear users, except purse seines, which were allowed 6% of the commercial allocation of TAC, were eliminated. The Gulf commercial allocation for king mackerel was divided into Eastern and Western Zones for the purpose of regional allocation, with 69% of the remaining allocation provided to the Eastern Zone and 31% to the Western Zone. Amendment 1 also established minimum size limits for Spanish mackerel at 12 inches fork length (FL) or 14 inches total length (TL), and for cobia at 33 inches FL or 37 inches TL.

**Amendment 2**, with an environmental assessment (EA), implemented in July 1987, revised MSY for Spanish mackerel downward, recognized two migratory groups, established allocations of TAC for the commercial and recreational sectors, and set commercial quotas and bag limits. Charter boat permits were established, and it was clarified that TAC must be set below the upper range of the acceptable biological catch. The use of purse seines on overfished stocks was prohibited, and their allocation of TAC was redistributed under the 69%:31% split.

**Amendment 3**, with EA, was partially approved in August 1989, revised, resubmitted, and approved in April 1990. It prohibited drift gillnets for coastal pelagic species and purse seines for the overfished migratory groups of mackerels.

**Amendment 4**, with EA, implemented in October 1989, reallocated Atlantic migratory group Spanish mackerel equally between recreational and commercial fishermen.

**Amendment 5**, with EA, implemented in August 1990, made the following changes in the management regime:

- Extended the management area for Atlantic migratory groups of mackerels through the Mid-Atlantic Council's area of jurisdiction;
- Revised problems in the fishery and plan objectives;
- Revised the fishing year for Gulf Spanish mackerel from July-June to April-March;
- Revised the definition of "overfishing;"
- Added cobia to the annual stock assessment procedure;
- Provided that the South Atlantic Council will be responsible for pre-season adjustments

of TACs and bag limits for the Atlantic migratory groups of mackerels while the Gulf Council will be responsible for Gulf migratory groups;

- Continued to manage the two recognized Gulf migratory groups of king mackerel as one until management measures appropriate to the eastern and western migratory groups can be determined;
- Re-defined recreational bag limits as daily limits;
- Deleted a provision specifying that bag limit catch of mackerel may be sold;
- Provided guidelines for corporate commercial vessel permits;
- Specified that Gulf migratory group king mackerel may be taken only by hook-and-line and run-around gillnets;
- Imposed a bag and possession limit of two cobia per person per day;
- Established a minimum size of 12 inches FL or 14 inches TL for king mackerel and included a definition of “conflict” to provide guidance to the Secretary.

**Amendment 6**, with EA, implemented in November of 1992, made the following changes:

- Identified additional problems and an objective in the fishery;
- Provided for rebuilding overfished stocks of mackerels within specific periods;
- Provided for biennial assessments and adjustments;
- Provided for more seasonal adjustment actions;
- Allowed for Gulf migratory group king mackerel stock identification and allocation when appropriate;
- Provided for commercial Atlantic migratory group Spanish mackerel possession limits;
- Changed commercial permit requirements to allow qualification in one of three preceding years;
- Discontinued the reversion of the bag limit to zero when the recreational quota is filled;
- Modified the recreational fishing year to the calendar year; and
- Changed the minimum size limit for king mackerel to 20 inches FL, and changed all size limit measures to FL only.

**Amendment 7**, with EA, implemented in November 1994, equally divided the Gulf commercial allocation in the Eastern Zone at the Miami-Dade-Monroe county line in Florida. The sub-allocation for the area from Monroe County through Western Florida is equally divided between commercial hook-and-line and net gear users.

**Amendment 8**, with EA, implemented in March 1998, made the following changes to the management regime:

- Clarified ambiguity about allowable gear specifications for the Gulf migratory group king mackerel fishery by allowing only hook-and-line and run-around gillnets. However, catch by permitted, multi-species vessels and bycatch allowances for purse seines were maintained;
- Established allowable gear in the South Atlantic and Mid-Atlantic areas as well as providing for the Regional Administrator to authorize the use of experimental gear;
- Established the Gulf and South Atlantic Councils’ intent to evaluate the impacts of permanent jurisdictional boundaries between the Gulf and South Atlantic Councils and development of separate fishery management plans for coastal pelagic species in these



areas;

- Established a moratorium on commercial king mackerel permits until no later than October 15, 2000, with a qualification date for initial participation of October 16, 1995;
- Increased the income requirement for a king or Spanish mackerel permit to 25% of earned income or \$10,000 from commercial sale of catch or charter or head boat fishing in one of the three previous calendar years, but allowed for a one-year grace period to qualify under permits that are transferred;
- Legalized retention of up to five cut-off (damaged) king mackerel on vessels with commercial trip limits;
- Set an optimum yield target at 30% static spawning potential ratio (SPR) for the Gulf and 40% static SPR for the Atlantic;
- Provided the South Atlantic Council with authority to set vessel trip limits, closed seasons or areas, and gear restrictions for Gulf migratory group king mackerel in the North Area of the Eastern Zone (Dade/Monroe to Volusia/Flagler county lines);
- Established various data consideration and reporting requirements under the framework procedure;
- Modified the seasonal framework adjustment measures and specifications (see Appendix A);
- Expanded the management area for cobia through the Mid-Atlantic Council's area of jurisdiction (to New York).

**Amendment 9**, with EA, implemented in April 2000, made the following changes to the management regime:

- Reallocated the percentage of the commercial allocation of TAC for the North Area (Florida east coast) and South/West Area (Florida west coast) of the Eastern Zone to 46.15% North and 53.85% South/West and retained the recreational and commercial allocations of TAC at 68% recreational and 32% commercial;
- Subdivided the commercial hook-and-line king mackerel allocation for the Gulf migratory group, Eastern Zone, South/West Area (Florida west coast) by establishing two subzones with a dividing line between the two subzones at the Collier/Lee county line;
- Established regional allocations for the west coast of Florida based on the two subzones with 7.5% of the Eastern Zone allocation of TAC being allowed from Subzone 2 and the remaining 92.5% being allocated as follows:
  - 50% - Florida east coast
  - 50% - Florida west coast that is further subdivided:
    - 50% - Net Fishery
    - 50% - Hook-and-Line Fishery
- Established a trip limit of 3,000 pounds per vessel per trip for the Western Zone;
- Established a moratorium on the issuance of commercial king mackerel gillnet endorsements and allow re-issuance of gillnet endorsements to only those vessels that: 1) had a commercial mackerel permit with a gillnet endorsement on or before the moratorium control date of October 16, 1995 (Amendment 8), and 2) had landings of king mackerel using a gillnet in one of the two fishing years, 1995/1996 or 1996/1997, as verified by the NMFS or trip tickets from Florida; allowed transfer of gillnet endorsements to immediate family members (son, daughter, father, mother, or spouse) only; and prohibited the use of gillnets or any other net gear for the harvest of Gulf

- migratory group king mackerel north of an east/west line at the Collier/Lee county line;
- Increased the minimum size limit for Gulf migratory group king mackerel from 20 inches to 24 inches FL;
- Allowed the retention and sale of cut-off (damaged), legal-sized king and Spanish mackerel within established trip limits.

**Amendment 10**, with Supplemental Environmental Impact Statement (SEIS), approved June 1999, incorporated essential fish habitat provisions for the South Atlantic.

**Amendment 11**, with SEIS, partially approved in December 1999, included proposals for mackerel in the South Atlantic Council's Comprehensive Amendment Addressing Sustainable Fishery Act Definitions and other Provisions in FMPs of the South Atlantic Region.

**Amendment 12**, with EA, implemented October 2000, extended the commercial king mackerel permit moratorium from its current expiration date of October 15, 2000, to October 15, 2005, or until replaced with a license limitation, limited access, and/or individual fishing quota or individual transferable quota system, whichever occurs earlier.

**Amendment 13**, with SEIS, implemented August 2002, established two marine reserves in the EEZ of the Gulf in the vicinity of the Dry Tortugas, Florida, known as Tortugas North and Tortugas South in which fishing for coastal migratory pelagic species is prohibited. This action complements previous actions taken under the National Marine Sanctuaries Act.

**Amendment 14**, with EA, implemented July 2002, established a three-year moratorium on the issuance of charter vessel and head boat Gulf migratory group king mackerel permits in the Gulf Council unless sooner replaced by a comprehensive effort limitation system. The control date for eligibility was established as March 29, 2001. Also includes provisions for eligibility, application, appeals, and transferability.

**Amendment 15**, with EA, implemented August 2005, established an indefinite limited access program for the commercial king mackerel fishery in the EEZ under the jurisdiction of the Gulf, South Atlantic Council, and Mid-Atlantic Council. It also changed the fishing season to March 1 through February 28/29 for the Atlantic migratory groups of king and Spanish mackerel.

**Amendment 16** was not developed.

**Amendment 17**, with SEIS, implemented June 2006, established a limited access system on for-hire reef fish and coastal migratory pelagic permits. Permits are renewable and transferable in the same manner as currently prescribed for such permits. There will be a periodic review at least every 10 years on the effectiveness of the limited access system.

**Amendment 18**, with EA, implemented in January 2012, established ACLs, ACTs, and AMs for king mackerel, Spanish mackerel, and cobia. The amendment also established both Atlantic and Gulf migratory groups for cobia; modified the framework procedures; and removed the following species from the FMU: cero, little tunny, dolphin and bluefish. The South Atlantic and Gulf Councils approved the amendment for formal review in August 2011. The amendment was

approved by the Secretary of Commerce in December 2011.

**Amendment 20A**, with EA, implemented July 2014, prohibits the sale of king and Spanish mackerel caught under the bag limit in each region except under limited circumstances. For the Gulf of Mexico, the amendment prohibits the sale of king and Spanish mackerel caught under the bag limit unless those fish are either caught on a for-hire trip and the vessel has both a for-hire and commercial vessel permit, or the fish are caught as part of a state-permitted tournament and the proceeds from the sale are donated to charity. For the Atlantic region, the amendment prohibits the sale of king and Spanish mackerel caught under the bag limit unless the fish are caught as part of a state-permitted tournament and the proceeds from the sale are donated to charity. In addition, the amendment removes the income qualification requirement for king and Spanish mackerel commercial permits.

**Amendment 20B**, with EA, implemented in March 2015, created a transit provision for areas closed to king mackerel and established Northern and Southern zones with separate commercial quotas for Atlantic king and Spanish mackerel.

**Amendment 21**, with EA, implemented in January 2012, addressed recreational fishing measures in South Carolina Special Management Zones (SMZs).

**Amendment 22**, with EA, implemented in January 2014, required weekly electronic reporting for headboats in the South Atlantic.

**Amendment 23**, with EA, implemented in August 2014, required Atlantic king mackerel and Spanish mackerel permit holders to sell to a federal dealer and required weekly electronic reporting for federal dealers.

**Amendment 26**, with EA, implemented in May 2017, updated the Gulf and Atlantic king mackerel ACLs based on SEDAR 30; modified the stock boundary between the Gulf and Atlantic migratory groups of king mackerel to be at the Miami-Dade/Monroe county line in southeastern Florida, with the Gulf Council managing king mackerel to that line year-round; allowed bag limit sales on Atlantic king mackerel in the small coastal shark gillnet fishery; increased the recreational bag limit from 2-fish per person per day to 3-fish per person per day, other than off Florida and revised the commercial trip limits for Atlantic king mackerel.

**Framework Amendment 6**, implemented September 2019, updated the Atlantic king mackerel commercial trip limits in the Atlantic Southern Zone during Season 1 (March 1 through September 30) of the fishing year.

**Framework Amendment 8**, implemented September 2020, updated the Atlantic king mackerel commercial trip limits in the Atlantic Southern Zone during Season 2 (October 1 through the end of February) of the fishing year.

**Emergency Rule**, effective September 17, 2020, through March 16, 2021, updated the recreational bag limit for Atlantic migratory group king mackerel (Atlantic king mackerel) from: (1) 3-fish per person to 4-fish per person in federal waters from the Connecticut/Rhode

Island/New York boundary to the Georgia/Florida boundary, and (2) 2-fish per person to 4-fish per person in federal waters from the Georgia/Florida boundary south to the Miami-Dade/Monroe County, Florida boundary.