

3. In § 10.5, within the definition of Department, the introductory text and paragraph (f) are revised, and a new paragraph (i) is added at the end to read as follows:

§ 10.5 Definitions.

* * * * *

Department means the Department of Transportation, including the Office of the Secretary, the Office of Inspector General, and the following operating administrations: This definition specifically excludes the Surface Transportation Board, which has its own Privacy Act regulations (49 CFR Part 1007), except to the extent that any system of records notice provides otherwise.

* * * * *

(f) Federal Transit Administration.

* * * * *

(i) Bureau of Transportation Statistics.

4. In § 10.11, the first sentence is revised to read as follows:

§ 10.11 Administration of part.

Authority to administer this part in connection with the records of the Office of the Secretary is delegated to the Assistant Secretary for Administration.

* * * * *

5. In § 10.23 the introductory text is revised to read as follows:

§ 10.23 Accounting of disclosures.

Each operating administration, the Office of Inspector General, and the Office of the Secretary, with respect to each system of records under its control:

* * * * *

6. In § 10.31, paragraph (a) is revised to read as follows:

§ 10.31 Requests for records.

(a) Ordinarily, each person desiring to determine whether a record pertaining to him/her is contained in a system of records covered by this part or desiring access to a record covered by this part, or to obtain a copy of such a record, shall make a request in writing addressed to the system manager. The "Privacy Act Issuances" published by the Office of the **Federal Register**, National Archives and Records Administration, describes the systems of records maintained by all Federal agencies, including the Department and its components. In exceptional cases oral requests are accepted. A description of DOT Privacy Act systems notices is available through the Internet free of charge at <http://www.access.gpo.gov/su-docs/aces/PrivacyAct.shtml?desc015.html>. See § 10.13(b)

regarding inquiries concerning Privacy Act matters or requests for assistance.

* * * * *

7. In § 10.35, paragraph (a) introductory text is revised and paragraph (a)(12) is added to read as follows:

§ 10.35 Conditions of disclosure.

(a) No record that is contained within a system of records of the Department is disclosed by any means of communication to any person, or to another agency, except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains, unless disclosure of the record would be:

* * * * *

(12) To a consumer reporting agency in accordance with 31 U.S.C. 3711(f).

* * * * *

8. In § 10.37, the last sentence is revised to read as follows:

§ 10.37 Identification of individual making request.

* * * * *

In such cases, these additional requirements are listed in the public notice for the system.

9. Section 10.39 is revised to read as follows:

§ 10.39 Location of records.

Each record made available under this subpart is available for inspection and copying during regular working hours at the place where it is located, or, upon reasonable notice, at the document inspection facilities of the Office of the Secretary or each administration. Original records may be copied but may not be released from custody. Upon payment of the appropriate fee, copies are mailed to the requester.

10. Section 10.41 is revised to read as follows:

§ 10.41 Requests for correction of records.

Any person who desires to have a record pertaining to that person corrected shall submit a written request detailing the correction and the reasons the record should be so corrected. Requests for correction of records shall be submitted to the System Manager.

11. In § 10.51, paragraphs (c) and (h) are revised, to read as follows:

§ 10.51 General.

* * * * *

(c) Each application for review must be made in writing and must include all information and arguments relied upon by the person making the request, and be submitted within 30 days of the date of the initial denial; exceptions to this

time period are permitted for good reason.

* * * * *

(h) Any final decision by an Administrator or his/her delegate not to grant access to or amend a record under this part is subject to concurrence by the General Counsel or his or her delegate.

12. In § 10.63 introductory text is revised to read as follows:

§ 10.63 Specific exemptions.

The Secretary or his or her delegate, in the case of the Office of the Secretary; or the Administrator or his or her delegate, in the case of an operating administration; or the Inspector General or his or her delegate, in the case of the Office of Inspector General, may exempt any system of records that is maintained by the Office of the Secretary, an operating administration, or the Office of Inspector General, as the case may be, from subsections (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f) of the Act and implementing §§ 10.23(c); 10.35(b); 10.41; 10.43; 10.45; 10.21(a) and 10.21(d)(6), (7), and (8), under the following conditions:

* * * * *

13. "Appendix A to part 10" is redesignated as "Appendix to part 10".

14. Appendices B through J are removed.

Issued in Washington, DC, on March 24, 1997.

Rodney E. Slater,

Secretary of Transportation.

[FR Doc. 97-11305 Filed 4-30-97; 8:45 am]

BILLING CODE 4910-62-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 600

[Docket No. 970410085-7085-01; I.D. 022197E]

RIN 0648-AJ72

Procedures Governing Establishment and Operation of Fishery Negotiation Panels

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

ACTION: Final rule.

SUMMARY: The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) directs the Secretary of Commerce (Secretary) to implement regulations providing for the optional use of "fishery negotiation

panels" (FNPs) and negotiated rulemaking techniques in the development of fishery conservation and management measures. The Magnuson-Stevens Act requires the Secretary to establish procedures for the operation of FNPs comparable to those set out in the Negotiated Rulemaking Act (NRA). The following regulations are intended to implement these requirements.

EFFECTIVE DATE: May 1, 1997.

ADDRESSES: Comments should be submitted to the Highly Migratory Species Division, NMFS, Northeast Regional Office, 1 Blackburn Drive, Gloucester, MA 01930.

FOR FURTHER INFORMATION CONTACT: Mark Murray-Brown, 508-281-9260.

SUPPLEMENTARY INFORMATION:

Background

Section 110 of Public Law No. 104-297, the Sustainable Fisheries Act of 1996, amended section 305 of the Magnuson-Stevens Act, by adding a new section (g) that authorizes both the Secretary and the Fishery Management Councils (Councils) to establish FNPs to assist in the development of conservation and management measures for a fishery under its authority 16 U.S.C. 1855(g). The same section requires NMFS to prepare regulations specifying the procedures for the establishment and operation of FNPs. Section 305(g) further specifies that the procedures are to be comparable to the procedures of the NRA (5 U.S.C. 561 *et seq.*). NMFS was also required to develop these regulations in cooperation with the Administrative Conference of the United States (ACUS), which had extensive experience with the NRA and had published in 1995 a Negotiated Rulemaking Sourcebook. Although the ACUS has since been disbanded, NMFS was able to use the ACUS Negotiated Rulemaking Sourcebook for guidance in preparing this rule.

Both the Councils and NMFS already have extensive procedures regarding the preparation of fishery conservation and management measures and rule publication. However, in the case of Councils, there may be certain, specific circumstances where the use of FNPs may assist a Council with specific fisheries under its authority. Development of a report and identification of areas of consensus among interests on a contentious issue may assist Council debate and voting on a controversial measure if the Council has this information available before its regular meetings.

In the case of the Secretary, section 305(g) of the Magnuson-Stevens Act

states that an FNP may be established to assist in the development of specific conservation and management measures in three specific areas. The first area involves rebuilding of fisheries under section 304(e)(5). This section requires the Secretary to prepare a fishery management plan (FMP) or plan amendment and regulations to stop overfishing and rebuild affected stocks of fish within a 9-month timeframe. The second area where an FNP may be used by the Secretary involves the management of highly migratory species (HMS) under section 304(g). Finally, the Secretary may establish and use an FNP for any other fishery with the approval of the appropriate Council.

Establishment of an FNP

Traditionally, negotiated rulemaking provides an opportunity for those with a stake in the potential rulemaking—including the agency—to attempt to reach a consensus on the features of a rule *before* it is proposed by the agency. Following careful identification of the interests that would be significantly affected by the rule, an advisory committee is established on which the various interests are represented through direct representation or through coalitions formed for this purpose.

The NRA established a statutory framework for conduct of negotiated rulemaking. This framework includes convening and determination of need for a negotiated rulemaking committee, publication of notice for applications for membership on the committee, establishment of the committee in accordance with the provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. Appendix, and operation of the committee with the use of a facilitator.

This rule requires a Council or NMFS to, effectively, follow the elements of the NRA throughout the establishment and operation of an FNP and thus modifies the NRA procedures to meet the requirements of section 305(g). The intent is to create a committee, comprised of a balanced and representative set of all interests in a negotiation, that can achieve a consensus on all issues involved.

The decision to establish an FNP under section 305(g) also requires consideration of other relevant procedures of the Magnuson-Stevens Act. For example, the decision to establish an FNP for situations involving rebuilding of fisheries also requires determinations regarding the relevant procedures of section 304(e)(5) of the Magnuson-Stevens Act. In this case, establishing an FNP, following the required FACA charter process,

convening the FNP, conducting negotiations, publishing the FNP's report in the **Federal Register**, considering the report, considering public comments on the report, and making appropriate determinations would likely render the 9-month deadline under section 304(e)(5) difficult to meet. Thus, it may be impractical to utilize the FNP process in a setting as time-sensitive as rebuilding overfished fisheries.

FNPs may also be established to assist with HMS management under section 304(g). However, under section 302(g)(2) the Secretary is mandated to establish Fishery Advisory Panels for FMPs prepared for HMS. Therefore, in addition to the mandatory Fishery Advisory Panel, the Secretary may choose to establish an FNP to assist the Fishery Advisory Panel in the development of conservation and management measures. A decision to establish an FNP, in addition to the mandatory Fishery Advisory Panel, would have to weigh practical considerations of two groups, working on substantially similar issues, that may be comprised of the same individuals. As there is no limitation of the Secretary's ability to utilize the procedures of the NRA, the Secretary may choose to utilize the procedures of the NRA for the mandatory Fishery Advisory Panel. This rule in no way affects the ability of a Council to establish an advisory panel under section 302(g)(2) of the Magnuson-Stevens Act.

Finally, the Secretary may establish and use FNPs for any other fishery with the approval of the appropriate Council. In these cases, a Council would choose to have NMFS take the lead on creating and operating an FNP, although the Council would still participate as a member of the FNP, and still have the responsibility for submitting any FMP amendment or regulation to the Secretary for review under the Magnuson-Stevens Act.

Operation of an FNP

The intent of this rule is to specify that the following procedures apply to the operation of an FNP, if either the Council or NMFS exercises its authority to establish one. The FNP is chaired by a trained mediator or facilitator. Representatives from one or more Councils (as appropriate) and NMFS are members of the FNP, each representing the Council's and NMFS' own unique set of interests in the outcome. The facilitator oversees the process by focusing the members on the identification of issues and concerns and assisting them to consider ways in

which these can be addressed. The facilitator can also guide discussions between the negotiators and the parties they represent. Meetings are open to the public, in accordance with FACA, and, thus, all interested parties who are not members of the committee may observe the proceedings and participate during public comment periods. The process set out in this rule is thus a method of alternative dispute resolution in which an impartial neutral party is used to facilitate settlement of disputes about the terms of a potential conservation and management measure among the interests that would be significantly affected thereby.

In addition, there are two critical features to this rule: (1) The entire process, if used, must take place *prior* to the beginning of the statutory requirements for implementing FMPs or regulations. However, the Council or NMFS has discretion prior to this point when to use this process. (2) Results and recommendations of the FNP are *advisory* in nature and neither the Council nor the Secretary is obligated to use any or all of the results of an FNP in implementing a rule. If used, an FNP's report could help resolve controversial areas of fish management before these areas are addressed by a Council or NMFS through Magnuson-Stevens Act rulemaking procedures.

Report and Results of FNP Procedures

For the purposes of this rule, and consistent with section 305(g) of the Magnuson-Stevens Act, an FNP is intended only to negotiate conservation and management measures rather than to develop a proposed rule. Thus, this rule modifies the procedures of the NRA to refer to conservation and management measures rather than rules or regulations.

At the conclusion of its negotiations, an FNP may submit a report that would specify all the areas where consensus was reached by the panel, including, if appropriate, proposed conservation and management measures, as well as any other information submitted by members of the FNP. Once NMFS receives the report, the report will be published in the **Federal Register** for public comment. Finally, the FNP's report may be used by the Council or NMFS in the development of any regulation, FMP, or plan amendment.

Classification

Under 5 U.S.C. 553(b)(A), prior notice and an opportunity for public comment are not required to be provided for this rule as this is a rule of procedure. Further, because prior notice and an opportunity for public comment are not

required under 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are not applicable. Finally, because this rule is not substantive, it is not subject to the 30-day delay in effective date required of substantive rules under 5 U.S.C. 553(d). This rule has been determined to be not significant for purposes of E.O. 12866.

List of Subjects in 50 CFR Part 600

Fisheries, Fishing.

Dated: April 25, 1997.

Nancy Foster,

Deputy Assistant Administrator for Fisheries,
National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 600 is amended as follows:

PART 600—MAGNUSON ACT PROVISIONS

1. The authority citation for part 600 is revised to read as follows:

Authority: 5 U.S.C. 561 and 16 U.S.C. 1801 *et seq.*

2. A new subpart I is added to read as follows:

Subpart I—Fishery Negotiation Panels

- 600.750 Definitions.
- 600.751 Determination of need for a fishery negotiation panel.
- 600.752 Use of conveners and facilitators.
- 600.753 Notice of intent to establish a fishery negotiation panel.
- 600.754 Decision to establish a fishery negotiation panel.
- 600.755 Establishment of a fishery negotiation panel.
- 600.756 Conduct and operation of a fishery negotiation panel.
- 600.757 Operational protocols.
- 600.758 Preparation of report.
- 600.759 Use of report.
- 600.760 Fishery Negotiation Panel lifetime.

Subpart I—Fishery Negotiation Panels

§ 600.750 Definitions.

Consensus means unanimous concurrence among the members on a Fishery Negotiation Panel established under this rule, unless such Panel:

- (1) Agrees to define such term to mean a general but not unanimous concurrence; or
- (2) agrees upon another specified definition.

Fishery negotiation panel (FNP) means an advisory committee established by one or more Councils or the Secretary in accordance with these regulations to assist in the development of fishery conservation and management measures.

Interest means, with respect to an issue or matter, multiple parties that have a similar point of view or that are likely to be affected in a similar manner.

Report means a document submitted by an FNP in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

§ 600.751 Determination of need for a fishery negotiation panel.

A Council or NMFS may establish an FNP to assist in the development of specific fishery conservation and management measures. In determining whether to establish an FNP, NMFS or the Council, as appropriate, shall consider whether:

(a) There is a need for specific fishery conservation and management measures.

(b) There are a limited number of identifiable interests that will be significantly affected by the conservation and management measure.

(c) There is a reasonable likelihood that an FNP can be convened with a balanced representation of persons who:

(1) Can adequately represent the interests identified under paragraph (b) of this section.

(2) Are willing to negotiate in good faith to reach a consensus on a report regarding the issues presented.

(d) There is a reasonable likelihood that an FNP will reach

a consensus on a report regarding the issues presented within 1 year from date of establishment of the FNP.

(e) The use of an FNP will not unreasonably delay Council or NMFS fishery management plan development or rulemaking procedures.

(f) The costs of establishment and operation of an FNP are reasonable when compared to fishery management plan development or rulemaking procedures that do not use FNP procedures.

(g) The Council or NMFS has adequate resources and is willing to commit such resources, including technical assistance, to an FNP.

(h) The use of an FNP is in the public interest.

§ 600.752 Use of conveners and facilitators.

(a) *Purposes of conveners.* A Council or NMFS may use the services of a trained convener to assist the Council or NMFS in: (1) Conducting discussions to identify the issues of concern, and to ascertain whether the establishment of an FNP regarding such matter is feasible and appropriate.

(2) Identifying persons who will be significantly affected by the issues

presented in paragraph (a)(1) of this section.

(b) *Duties of conveners.* The convener shall report findings under paragraph (a)(2) of this section and shall make recommendations to the Council or NMFS. Upon request of the Council or NMFS, the convener shall ascertain the names of persons who are willing and qualified to represent interests that will be significantly affected by the potential conservation and management measures relevant to the issues to be negotiated. The report and any recommendations of the convener shall be made available to the public upon request.

(c) *Selection of facilitator.*

Notwithstanding section 10(e) of the Federal Advisory Committee Act (FACA), a Council or NMFS may nominate a person trained in facilitation either from the Federal Government or from outside the Federal Government to serve as an impartial, neutral facilitator for the negotiations of the FNP, subject to the approval of the FNP, by consensus. The facilitator may be the same person as the convener used under paragraph (a) of this section. If the FNP does not approve the nominee of the Council or NMFS for facilitator, the FNP shall submit a substitute nomination. If an FNP does not approve any nominee of the Council or NMFS for facilitator, the FNP shall select, by consensus, a person to serve as facilitator. A person designated to represent the Council or NMFS in substantive issues may not serve as facilitator or otherwise chair the FNP.

(d) *Roles and duties of facilitator.* A facilitator shall:

(1) Chair the meetings of the FNP in an impartial manner.

(2) Impartially assist the members of the FNP in conducting discussions and negotiations.

(3) Manage the keeping of minutes and records as required under section 10(b) and (c) of FACA.

§ 600.753 Notice of intent to establish a fishery negotiation panel.

(a) *Publication of notice.* If, after considering the report of a convener or conducting its own assessment, a Council or NMFS decides to establish an FNP, NMFS shall publish in the **Federal Register** and, as appropriate, in trade or other specialized publications, a document that shall include:

(1) An announcement that the Council or NMFS intends to establish an FNP to negotiate and develop a report concerning specific conservation and management measures.

(2) A description of the subject and scope of the conservation and

management measure, and the issues to be considered.

(3) A list of the interests that are likely to be significantly affected by the conservation and management measure.

(4) A list of the persons proposed to represent such interests and the person or persons proposed to represent the Council or NMFS.

(5) A proposed agenda and schedule for completing the work of the FNP.

(6) A description of administrative support for the FNP to be provided by the Council or NMFS, including technical assistance.

(7) A solicitation for comments on the proposal to establish the FNP, and the proposed membership of the FNP.

(8) An explanation of how a person may apply or nominate another person for membership on the FNP, as provided under paragraph (b) of this section.

(b) *Nomination of members and public comment.* Persons who may be significantly affected by the development of conservation and management measure and who believe that their interests will not be adequately represented by any person specified in a document under paragraph (a)(4) of this section may apply for, or nominate another person for, membership on the FNP to represent such interests. Each application or nomination shall include:

(1) The name of the applicant or nominee and a description of the interests such person shall represent.

(2) Evidence that the applicant or nominee is authorized to represent parties related to the interests the person proposes to represent.

(3) A written commitment that the applicant or nominee shall actively participate in good faith in the development of the conservation and management measure under consideration.

(4) The reasons that the persons specified in the document under paragraph (a)(4) of this section do not adequately represent the interests of the person submitting the application or nomination.

(c) *Public comment.* The Council or NMFS shall provide at least 30 calendar days for the submission of comments and applications under this section.

§ 600.754 Decision to establish a fishery negotiation panel.

(a) *Determination to establish an FNP.* If, after considering comments and applications submitted under § 600.753, the Council or NMFS determines that an FNP can adequately represent the interests that will be significantly affected and that it is feasible and appropriate in the particular case, the Council or NMFS may establish an FNP.

(b) *Determination not to establish FNP.* If, after considering such comments and applications, the Council or NMFS decides not to establish an FNP, the Council or NMFS shall promptly publish notification of such decision and the reasons therefor in the **Federal Register** and, as appropriate, in trade or other specialized publications, a copy of which shall be sent to any person who applied for, or nominated another person for membership on the FNP to represent such interests with respect to the issues of concern.

§ 600.755 Establishment of a fishery negotiation panel.

(a) *General authority.* (1) A Council may establish an FNP to assist in the development of specific conservation and management measures for a fishery under its authority.

(2) NMFS may establish an FNP to assist in the development of specific conservation and management measures required for:

(i) A fishery for which the Secretary has authority under section 304(e)(5) of the Magnuson-Stevens Act, regarding rebuilding of overfished fisheries;

(ii) A fishery for which the Secretary has authority under 16 U.S.C. section 304(g), regarding highly migratory species; or

(iii) Any fishery with the approval of the appropriate Council.

(b) *Federal Advisory Committee Act (FACA)* In establishing and administering such an FNP, the Council or NMFS shall comply with the FACA with respect to such FNP.

(c) *Balance.* Each potentially affected organization or individual does not necessarily have to have its own representative, but each interest must be adequately represented. The intent is to have a group that as a whole reflects a proper balance and mix of interests. Representatives must agree, in writing, to negotiate in good faith.

(d) *Membership.* The Council or NMFS shall limit membership on an FNP to no more than 25 members, unless the Council or NMFS determines that a greater number of members is necessary for the functioning of the FNP or to achieve balanced membership. Each FNP shall include at least one person representing the Council in addition to at least one person representing NMFS.

§ 600.756 Conduct and operation of a fishery negotiation panel.

(a) *Roles and duties of an FNP.* Each FNP shall consider the issue proposed by the Council or NMFS for consideration and shall attempt to reach a consensus concerning a report to assist

in the development of a conservation and management measure with respect to such matter and any other matter the FNP determines is relevant to the development of a conservation and management measure. An FNP may adopt procedures for the operation of the FNP.

(b) *Roles and duties of representative of the council or NMFS.* The person or persons representing the Council or NMFS on an FNP shall participate in the deliberations and activities of the FNP with the same rights and responsibilities as other members of the FNP, and shall be authorized to fully represent the Council or NMFS in the discussions and negotiations of the FNP.

§ 600.757 Operational protocols.

(a) *Services of conveners and facilitators.* A Council or NMFS may employ or enter into contracts for the services of an individual or organization to serve as a convener or facilitator for an FNP established under § 600.755, or may use the services of a government employee to act as a convener or a facilitator for such an FNP.

(b) *Councils.* For an FNP proposed and established by one or more Councils approved expenses shall be paid out of the Council's operating budget.

(c) *Expenses of FNP members.* Members of an FNP shall be responsible for their own expenses of participation in such an FNP, except that NMFS or the Council may, in accordance with section 7(d) of FACA, pay for a member's reasonable travel and per diem expenses, and a reasonable rate of compensation, if:

(1) Such member certifies a lack of adequate financial resources to participate in the FNP.

(2) The Council or NMFS determines that such member's participation in the FNP is necessary to assure an adequate representation of the member's interest.

(d) *Administrative support.* The Council or NMFS shall provide appropriate administrative support to an FNP including technical assistance.

§ 600.758 Preparation of report.

(a) At the conclusion of the negotiations, an FNP may submit a report. Such report shall specify:

(1) All the areas where consensus was reached by the FNP, including, if appropriate, proposed conservation and management measures.

(2) Any other information submitted by members of the FNP.

(b) Upon receipt of the report, the Council or NMFS shall publish such report in the **Federal Register** for public comment.

§ 600.759 Use of report.

A Council or NMFS may, at its discretion, use all or a part of a report prepared in accordance with § 600.758 in the development of conservation and management measures. Neither a Council nor NMFS, whichever is appropriate, is required to use such report.

§ 600.760 Fishery Negotiation Panel lifetime.

(a) An FNP shall terminate upon either:

(1) Submission of a report prepared in accordance with § 600.758; or

(2) Submission of a written statement from the FNP to the Council or NMFS that no consensus can be reached.

(b) In no event shall an FNP exist for longer than 1 year from the date of establishment unless granted an extension. Upon written request by the FNP to the Council or NMFS, and written authorization from the Council or NMFS (whichever is appropriate), the Secretary may authorize an extension for a period not to exceed 6 months. No more than one extension may be granted per FNP.

[FR Doc. 97-11353 Filed 4-30-97; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 961204340-7087-02; I.D. 110196D]

RIN 0648-A113

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

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

ACTION: Final rule.

SUMMARY: In accordance with the framework procedure for adjusting management measures of the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (FMP), NMFS issues this rule to reduce the commercial quotas for Atlantic group king and Spanish mackerel, revise the trip limits for Atlantic group Spanish mackerel, reduce the commercial quota for Gulf group Spanish mackerel, revise the commercial trip limits in the eastern

zone for Gulf group king mackerel, and establish a zero bag limit for Gulf group king mackerel for captains and crews of charter vessels and headboats. The intended effects of this rule are to protect king and Spanish mackerel from overfishing and maintain healthy stocks while still allowing catches by important commercial and recreational fisheries.

EFFECTIVE DATE: June 2, 1997.

FOR FURTHER INFORMATION CONTACT: Mark Godcharles, 813-570-5305.

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

In accordance with the framework procedures of the FMP, the Councils recommended, and NMFS published, a proposed rule to implement, for the 1996/97 fishing year, the following measures: For Atlantic migratory groups, reduced commercial quotas for king and Spanish mackerel and modified commercial trip limits for Spanish mackerel; and, for Gulf migratory groups, reduced commercial quota for Spanish mackerel and revised commercial trip limits and recreational bag limit for king mackerel (61 FR 66008, December 16, 1996). That proposed rule described the FMP's framework procedures through which the Councils recommended the changes and explained the need and rationale for them. Those descriptions are not repeated here.

The 1996/97 fishing year for commercial fisheries for Gulf migratory group king mackerel ends June 30; for all other groups of Spanish and king mackerel, the fishing year ended March 31. The quotas and trip limits adopted here, however, will continue into the 1997/98 fishing year until superseded by future specifications. The zero bag limit for Gulf group king mackerel for captains and crews of charter vessels and headboats will likewise continue until superseded.

Comments and Responses

Eight comments were received during the comment period, all pertaining to changes proposed for Gulf group king mackerel. Two charter boat associations, two charter boat captains, and a marine extension agent opposed approval/implementation of the zero bag limit for captain and crew on charter and