

#### D. Unfunded Mandates Act

Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act") requires that the Agency prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in expenditure by State, local, and tribal governments, in aggregate, or by the private sector, of \$100 million or more in any one year. A "Federal intergovernmental mandate" excludes "a duty arising from participation in a voluntary Federal program," unless the regulation "relates to a then-existing Federal program under which \$500,000,000 or more is provided annually to State, local, and tribal governments under entitlement authority," if the provision would "increase the stringency of conditions of assistance" or "place caps upon, or otherwise decrease the Federal Government's responsibility to provide funding. A "Federal private sector mandate" includes a regulation that "would impose an enforceable duty upon the private sector, except (i) a condition of Federal assistance; or (ii) a duty arising from participation in a voluntary Federal program."

The proposed model OMTR would be a voluntary program that State and local governments could adopt. If adopted, the rule would govern the voluntary participation of private sector entities in an emissions trading program. Because the program would be voluntary for State and local governments and private entities, the Agency has not prepared a budgetary impact statement.

#### E. Paperwork Reduction Act

Today's proposal contains voluntary information collection requirements that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501, *et seq.*

This collection of information has an estimated reporting burden averaging of 73.5 hours per trade and an estimated annual recordkeeping burden averaging 60 hours per respondent. These estimates include time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden to Director, Regulatory Information Division, EPA, 401 M St., SW (Mail Code 2138), Washington, DC 20460, and to the Office of Information and Regulatory Affairs, Office of

Management and Budget, Washington, DC 20503, marked "Attention: Desk Officer for EPA."

#### F. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 and applicable EPA guidelines revised in 1992 require Federal agencies to identify potentially adverse impacts of Federal rules upon small entities. Small entities include small businesses, organizations, and governmental jurisdictions. In instances where significant impacts are possible on a substantial number of these entities, agencies are required to perform a Regulatory Flexibility Analysis.

Today's proposal does not of itself impose an requirements on small entities, nor require or exclude small entities participation in open market trading in the future. As a result, the EPA has determined that the proposed rule will not have a significant impact on a substantial number of small entities.

Therefore, as required under section 605 of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, I certify that this rule does not have a significant impact on a substantial number of small entities.

#### G. Clean Air Act Section 117

In accordance with section 117 of the Act, publication of this proposal was preceded by consultation with appropriate advisory committees, independent experts, and Federal departments and agencies. The Administrator welcomes comment on all aspects of the proposed model rule, including health, economic, technological, and other aspects.

Dated: July 26, 1995.

**Carol M. Browner,**

*Administrator.*

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## FEDERAL EMERGENCY MANAGEMENT AGENCY

### 44 CFR Part 10

RIN 3067-AC41

### Environmental Considerations/ Categorical Exclusions

**AGENCY:** Federal Emergency Management Agency (FEMA).

**ACTION:** Proposed rule.

**SUMMARY:** This rule proposes to revise the categories of actions or categorical exclusions that normally would not require an environmental impact statement or environmental assessment.

These proposed changes are intended to reduce the administrative processes and decrease the time required for project funding and implementation, while still ensuring that FEMA satisfies environmental concerns and issues. The proposed changes are consistent with Federal directives, regulations and statutes.

**DATES:** We invite comments on the proposed rule, which must be received on or before September 18, 1995.

**ADDRESSES:** Please submit written comments to the Rules Docket Clerk, Office of the General Counsel, Federal Emergency Management Agency, 500 C Street SW., room 840, Washington, DC 20472, (fax) (202) 646-4536.

**FOR FURTHER INFORMATION CONTACT:** Rick Shivar, Office of Policy and Assessment, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, or phone (202) 646-3610.

**SUPPLEMENTARY INFORMATION:** The proposed changes respond to numerous suggestions for additional exclusion categories and for modifications to existing exclusion categories. They reflect several years' experience on the types of actions that generally receive a finding of no significant impact after FEMA makes an environmental assessment. The proposed changes are intended to speed the approval of those projects with no potential for significant environmental effects and to allow attention to be focused on those projects with potential environmental concerns.

In order to produce a complete and effective update of exclusion categories, we conducted a review of the environmental assessments (EA) and the findings of no significant impact (FONSI) that FEMA has issued. In the last few years we have completed over 340 EAs, but there is only one case where an environmental impact statement (EIS) was written. While many EAs identified impacts that were able to be mitigated below the level of significance, we found that the clear majority of actions have no significant impact. Reviewing this last group revealed specific types of projects that historically did not produce significant environmental effects. In conjunction with the review of FEMA's EAs, we conducted a literature review of other Federal documents containing similar types of exclusions to ensure consistency of FEMA's exclusions with other Federal agencies' regulations. The results of these two reviews are the basis for the proposed change to FEMA's list of exclusion categories.

These proposed changes are also in keeping with the Council on Environmental Quality's guidance to

Federal agencies on this subject (48 FR 34263, July 28, 1983). That guidance encourages Federal agencies to add flexibility to implementing procedures to allow new types of actions to be classified as categorical exclusions (CATEXs) with minimal documentation required. This is done by developing more broadly defined categories as well as providing examples of typical CATEXs, rather than a comprehensive list, so that specific actions not previously listed by an agency can be considered for CATEX status on a case-by-case basis.

The proposed exclusion categories would not affect FEMA's responsibility to comply with all other applicable local, state, and Federal laws and regulations relating to health, safety and the environment. This would encompass Federal environmentally oriented statutes including, among others: the Clean Air Act, the Clean Water Act, the Resource Conservation and Recovery Act, the Comprehensive Environmental Response, Compensation and Liability Act, the Coastal Zone Management Act, the Coastal Barrier Resources Act, the Endangered Species Act, the National Historic Preservation Act, and the Archaeological and Historic Preservation Act. It would not affect FEMA's responsibilities under Executive Orders 11988, 11990, and 12898. Nor would it affect FEMA's implementing regulations at 44 CFR part 9, or FEMA's National Flood Insurance Program rules at 44 CFR parts 59 through 77.

A point of clarification of the term "categorical exclusion" is necessary in the discussion of this proposed rule. Section 316 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), Pub.L. 93-288, as amended, 42 U.S.C. 5159, provides (1) for a statutory exclusion from NEPA requirements for certain actions taken under specific sections of that Act (sections 402, 403, 407 and 502), and (2) for those actions under section 406 of the Stafford Act that have "the effect of restoring a facility substantially to its condition prior to the disaster or emergency." While statutory exclusions are exempted from all NEPA documentation, actions that are categorically excluded from preparation of an EA or an EIS must be documented by FEMA under this part. However, as with actions categorically excluded, an action statutorily excluded from NEPA is not exempt from the requirements of the other environmentally oriented statutes indicated above. To help determine the level of environmental review required and, specifically, when neither an EA nor an EIS is likely to be

required for a proposed action, the list of exclusion categories presented by this rule is comprehensive in that it includes both categorical exclusions and those actions that are statutorily excluded (denoted by [SE]).

We present the list of proposed exclusion categories with administrative type actions appearing first followed by emergency and other actions. The administrative actions relate mainly to activities that in and of themselves do not normally impact the environment, such as: planning, design, procurement, acquisition, training, studies and other administrative processes. The emergency and other actions mainly address emergency, disaster-related, or other activities that could impact features of the human and natural environment, such as: construction; maintenance or repair of facilities or vegetation; relocation of structures; floodproofing; emergency response and deployment; physical and other assistance.

Since the proposed revision would republish and redesignate some paragraphs, and modify other paragraphs, the following discussion is directed only at those items that are added, removed, or revised.

44 CFR 10.8 would be revised to redesignate and revise the discussion of statutory exclusions to recognize the difference between the basic nature of the statutory exclusion and of the CATEX. We also updated references to sections of the Stafford Act.

New paragraph (d)(2) modifies the nomenclature "List of categorical exceptions" to "List of exclusion categories" to reflect the categorical nature of the list as opposed to a list of exceptions. This change is also reflected in new paragraph (d)(6). New paragraphs (d)(2)(i), (ii), (iii), (v), (vi), and (vii) make minor wording revisions and clarify the language of existing categories but do not change their general substance.

New paragraph (d)(2)(iv) would address inspection and monitoring processes that are part of the compliance requirements for various programs. These activities are passive as to the environment. Any federally funded action that the inspections or monitoring might recommend is subject to the NEPA process.

Paragraph (d)(2)(viii) would allow for the timely evaluation and acquisition of land in advance of project development to avoid land speculation that could arise with early public disclosure. This categorical exclusion applies only to acquisition of the land. Any subsequent use of the property for a facility or project must be considered as a separate

action under this part without regard to ownership of the land.

Paragraph (d)(2)(ix) would address the purchase or leasing of existing facilities when land use requirements allow the proposed use.

Paragraph (d)(2)(x) would allow for interagency exchange of real property.

Paragraph (d)(2)(xi) would cover the acquisition, installation, or operation of utilities, gauges, communication and warning systems when using established rights-of-way, existing systems or facilities.

Paragraph (d)(2)(xiii) would allow for the planting of indigenous vegetation, for example, to reduce erosion or fire hazard.

Paragraph (d)(2)(xiv) would apply to the removal of structures, improvements or debris to sites permitted for such material. The paragraph also applies to the demolition, as well as removal, of structures to such permitted locations.

Paragraph (d)(2)(xv) would apply to small, individual structures that are to be relocated to a new site, where the new site is developed with substantially completed infrastructure, and existing lots have been previously disturbed, for example, by grading or prior construction activities.

Paragraph (d)(2)(xvi) would exclude the act of granting a community exception for residential basement floodproofing pursuant to the National Flood Insurance Program.

Paragraph (d)(2)(xvii) would provide to actions under the mitigation and other programs the same exclusion available by statute to actions funded pursuant to section 406 of the Stafford Act whereby a facility can be restored to its approximate preexisting design, function and location.

Paragraph (d)(2)(xviii) would allow for improvements or upgrading to current codes or standards an existing facility in an already developed and appropriately zoned area on previously disturbed or graded lots. This would include improvements in the disturbed portion of a lot of an existing building, culverts and berms within the previously disturbed perimeter of a road, storm drainage or utility system or existing facility. New construction of hazard mitigation measures that satisfy the conditions of this section are also covered.

Paragraph (d)(2)(xix) would permit actions within enclosed facilities which comply with local construction, noise, pollution and waste disposal regulations.

Paragraph (d)(2)(xx) and paragraph (d)(2)(xxi) would incorporate some existing statutory exclusions into the CATEX list. Paragraph (d)(2)(xx) would

exclude, in addition to the existing category for the deployment and support of Emergency Support Teams, direct response activities including activation and support of the Catastrophic Disaster Response Group, Regional Operations Centers, Emergency Response Teams, Urban Search and Rescue teams, and situation assessment, reconnaissance and other data gathering efforts in response to and for recovery from a disaster.

Paragraph (d)(2)(xxi) would exclude emergency assistance and relief activities and would rephrase terminology to reflect the amended Stafford Act. This would include general federal and essential assistance (Stafford Act sections 402 and 403), food coupons and commodities (sections 412 and 413), and Federal emergency assistance (section 502). Debris removal (section 407) would become less restrictive. The temporary housing definition (section 408) would be simplified as would the definitions of the individual and family grant (section 411) and community disaster loan (section 417) exclusions.

In paragraph (d)(3) the list of Extraordinary Circumstances, which was section 10.8(e), would be updated to clarify the circumstances that may cause an action that is normally categorically excluded to have the potential for significant environmental impact. The previous paragraph (e)(2) describing "actions in highly populated or congested areas" is replaced in paragraph (d)(3)(ii) with a more workable "actions with a high level of controversy." In paragraph (d)(3)(iv) clarifying language is added to the term "unproven technology." In paragraph (d)(3)(vi) the hazardous substance condition was changed from "use" to "presence." Paragraph (d)(3)(vii), which addresses flood plains or wetlands, would be expanded to include other special or critical resources, i.e., coastal zones, wildlife refuge and wilderness areas, wild and scenic rivers, sole or principal drinking water aquifers, etc.

Two new categories were added to insure that adverse health and safety effects, paragraph (d)(3)(viii) and the potential violation of Federal, state, local or tribal requirements, paragraph (d)(3)(ix), would be considered as extraordinary circumstances.

Paragraph (d)(5), Revocation, would be added to assure that if the conditions upon which a categorical exclusion was granted have changed or new information is discovered indicating that the action no longer meets the conditions of the categorical exclusion,

the responsible official must revoke the exclusion and ask for a full environmental review.

Paragraph (d)(6)(i) and (d)(6)(ii), which addresses changes to the list of exclusion categories, adds "directorates" to "offices and administrations" to more correctly reflect all the organizational entities in FEMA.

#### **National Environmental Policy Act**

The requirements of 44 CFR Part 10, Environmental Consideration, would exclude this proposed rule. FEMA has not prepared an environmental impact statement.

#### **Regulatory Flexibility Act**

I certify that this proposed rule would not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act, 5 U.S.C. 601 et seq. The rule adds eight categories to FEMA's categorical exclusions from reviews under the National Environmental Policy Act, and FEMA does not expect the rule (1) would affect adversely the availability of disaster assistance funding to small entities, (2) would have significant secondary or incidental effects on a substantial number of small entities, or (3) would create any additional burden on small entities.

#### **Regulatory Planning and Review**

This proposed rule is not a significant regulatory action within the meaning of § 2(f) of E.O. 12866 of September 30, 1993, Regulatory Planning and Review, 3 CFR, 1994 Comp., p. 638. To the extent possible this proposed rule adheres to the regulatory principles set forth in E.O. 12866, but has not been reviewed by the Office of Management and Budget under E.O. 12866.

#### **Paperwork Reduction Act**

This proposed rule does not involve any collection of information for the purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq.

#### **Executive Order 12612, Federalism**

This proposed rule involves no policies that have federalism implications under Executive Order 12612, Federalism, October 26, 1987, 3 CFR, 1987 Comp., p.252.

#### **Executive Order 12778, Civil Justice Reform**

This proposed rule meets the applicable standards of section 2(b)(2) of Executive Order 12778, October 25, 1991, 56 FR 55195, 3 CFR, 1991 Comp., p.309.

#### **List of Subjects in 44 CFR Part 10**

Environmental impact statements.

Accordingly, 44 CFR part 10 is proposed to be amended as follows:

#### **PART 10—ENVIRONMENTAL CONSIDERATIONS**

1. The authority citation for part 10 is revised to read as follows:

**Authority:** 42 U.S.C. 4321 *et seq.*; E.O. 11514 of March 7, 1970, 35 FR 4247, as amended by E. O. 11991 of March 24, 1977, 3 CFR, 1977 Comp., p. 123; Reorganization Plan No. 3 of 1978, 43 FR 41943, 3 CFR, 1978 Comp., p. 329; E.O. 12127 of Mar. 31, 1979, 44 FR 19367, 3 CFR, 1979 Comp., p. 376; E.O. 12148 of July 20, 1979, 44 FR 43239, 3 CFR, 1979 Comp., p. 412, as amended.

2. In § 10.8, paragraphs (c), (d), and (e) are revised to read as follows:

#### **§ 10.8 Determination of requirement for environmental review.**

\* \* \* \* \*

(c) *Statutory exclusions.* The following actions are statutorily excluded from NEPA and the preparation of environmental impact statements and environmental assessments by section 316 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended, 42 U.S.C. 5159 (Stafford Act);

(1) Action taken or assistance provided under sections 403, 407, 502, or 422 of the Stafford Act; and  
(2) Action taken or assistance provided under section 406 or 422 of the Stafford Act that has the effect of restoring facilities substantially as they existed before a major disaster or emergency.

(d) *Categorical Exclusions (CATEXs).* CEQ regulations at 40 CFR 1508.4 provide for the categorical exclusion of actions that do not individually or cumulatively have a significant impact on the human environment and for which, therefore, neither an environmental assessment nor an environmental impact statement is required. Full implementation of this concept will help FEMA avoid unnecessary or duplicate effort and concentrate resources on significant environmental issues.

(1) *Criteria.* The criteria used for determination of those categories of actions that normally do not require either an environmental impact statement or an environmental assessment include:

- (i) Minimal or no effect on environmental quality;
- (ii) No significant change to existing environmental conditions; and
- (iii) No significant cumulative environmental impact.

(2) *List of exclusion categories.* FEMA has determined that the following categories of actions have no significant effect on the human environment and are, therefore, categorically excluded from the preparation of environmental impact statements and environmental assessments except where extraordinary circumstances as defined in paragraph (d)(5) of this section exist. If the action is of an emergency nature as described in section 316 of the Stafford Act (42 U.S.C. 5159), it is statutorily excluded and is noted with [SE]. Paragraphs (c)(2) (i) through (x) of this section address administrative actions and paragraphs (c)(2) (xi) through (xxi) of this section relate to emergency and other actions.

(i) Administrative actions such as personnel actions, travel, procurement of supplies, etc., in support of normal day to day activities and disaster related activities;

(ii) Preparation, revision, and adoption of regulations, directives, manuals, and other guidance documents related to actions which qualify for categorical exclusions;

(iii) Studies that involve no commitment of resources other than manpower and associated funding;

(iv) Inspection and monitoring activities, granting of variances, and actions to enforce Federal, state, or local codes, standards or regulations;

(v) Training activities and both training and operational exercises utilizing existing facilities in accordance with established procedures and land use designations;

(vi) Procurement of goods and services for support of day-to-day and emergency operational activities, and the storage of goods other than hazardous materials, so long as storage occurs on previously disturbed land or in existing facilities;

(vii) The acquisition of properties under any applicable authority when the acquisition is from a willing seller, the buyer coordinated acquisition planning with affected authorities, and the acquired property will be dedicated in perpetuity to uses that are compatible with open space, recreational, or wetland practices.

(viii) Acquisition of unimproved real property not related to specific facility plans or when necessary to protect the interests of FEMA in advance of final project approval; (This categorical exclusion applies only to the acquisition. Any subsequent use of the property for a facility or project must be considered under this part without regard to ownership of the real property);

(ix) Acquisition or lease of existing facilities where planned uses generally

conform to past use or local land use requirements;

(x) Transfer of administrative control of FEMA real property to another Federal agency;

(xi) Acquisition, installation, or operation of utility and communication systems that use existing rights-of-way, distribution systems, or facilities;

(xii) Routine maintenance, repair, and grounds-keeping activities;

(xiii) Planting of indigenous vegetation;

(xiv) Demolition of structures and/or disposal of uncontaminated structures and other improvements for removal to permitted off-site locations;

(xv) Physical relocation of individual structures to previously disturbed or graded lots in existing developed areas with substantially completed infrastructure;

(xvi) Granting of community-wide exceptions for floodproofed residential basements meeting the requirements of 44 CFR 60.6(c) under the National Flood Insurance Program;

(xvii) Repair, reconstruction, restoration, elevation, retrofitting, or replacement of any facility in a manner that substantially conforms to the preexisting design, function, and location; [SE, in part]

(xviii) Improvements or upgrading to current codes and standards of existing facilities and construction of hazard mitigation measures when those actions are in existing developed areas with substantially completed infrastructure, and when those actions do not alter function, system capacity, or land use; provided the operation of the completed project will not, of itself, have an adverse effect on the quality of the human environment;

(xix) Actions conducted within enclosed facilities where all airborne emissions, waterborne effluent, external radiation levels, outdoor noise, and solid and bulk waste disposal practices are in compliance with existing Federal, state, and local laws and regulations;

(xx) The following planning and administrative activities in support of emergency and disaster response and recovery:

(A) Activation of the Emergency Support Team and convening of the Catastrophic Disaster Response Group at FEMA headquarters;

(B) Activation of the Regional Operations Center and deployment of the Emergency Response Team, in whole or in part;

(C) Deployment of Urban Search and Rescue teams;

(D) Situation Assessment including ground and aerial reconnaissance;

(E) Information and data gathering and reporting efforts in support of

emergency and disaster response and recovery and hazard mitigation; and

(xxi) The following emergency and disaster response, recovery and hazard mitigation activities pursuant to the Stafford Act:

(A) General Federal Assistance (§ 402); [SE]

(B) Essential Assistance (§ 403); [SE]

(C) Debris Removal (§ 407) [SE]

(D) Temporary Housing (§ 408), except locating multiple mobile homes or other readily fabricated dwellings on sites, other than private residences, not previously used for such purposes;

(E) Unemployment Assistance (§ 410);

(F) Individual and Family Grant Programs (§ 411), except to the extent that grants will be used for restoring, repairing or building private bridges, or purchasing mobile homes or other readily fabricated dwellings;

(G) Food Coupons and Distribution (§ 412);

(H) Food Commodities (§ 413);

(I) Legal Services (§ 415);

(J) Crisis Counseling Assistance and Training (§ 416);

(K) Community Disaster Loans (§ 417);

(L) Emergency Communications (§ 418);

(M) Emergency Public Transportation (§ 419);

(N) Fire Suppression Grants (§ 420); and

(O) Federal Emergency Assistance (§ 502) [SE].

(3) *Extraordinary circumstances.* If extraordinary circumstances exist within an area affected by an action, such that an action that is categorically excluded from NEPA compliance may have a significant adverse environmental impact, an environmental assessment shall be prepared. Extraordinary circumstances that may have a significant environmental impact include:

(i) Greater scope or size than normally experienced for a particular category of action;

(ii) Actions with a high level of public controversy;

(iii) Potential for degradation, even though slight, of already existing poor environmental conditions;

(iv) Employment of unproven technology with potential adverse effects or actions involving unique or unknown environmental risks;

(v) Presence of endangered or threatened species or their critical habitat, archaeological remains, or other protected resources;

(vi) Presence of hazardous or toxic substances;

(vii) Actions with the potential to adversely affect special status areas or other critical resources such as

wetlands, coastal zones, wildlife refuge and wilderness areas, wild and scenic rivers, sole or principle drinking water aquifers;

(viii) Potential for adverse effects on health or safety; and

(ix) Potential to violate a Federal, State, local or tribal law or requirement imposed for the protection of the environment.

(4) *Documentation.* The Regional Director will prepare and maintain an administrative record of each proposal that is determined to be categorically excluded from the preparation of an environmental impact statement or an environmental assessment.

(5) *Revocation.* The Regional Director shall revoke a determination of categorical exclusion and shall require a full environmental review if, subsequent to the granting of an exclusion, the Regional Official determines that due to changes in the proposed action or in light of new findings, the action no longer meets the requirements for a categorical exclusion.

(6) *Changes to the list of exclusion categories.* (i) The FEMA list of exclusion categories will be continually reviewed and refined as additional categories are identified and experience is gained in the categorical exclusion process. An office, directorate, or administration of FEMA may, at any time, recommend additions or changes to the FEMA list of exclusion categories.

(ii) Offices, directorates, and administrations of FEMA are encouraged to develop additional categories of exclusions necessary to meet their unique operational and mission requirements.

(iii) If an office, directorate, or administration of FEMA proposes to change or add to the list of exclusion categories, it shall first:

(A) Obtain the approval of the Environmental Officer and FEMA's Office of the General Counsel; and

(B) Publish notice of such proposed change or addition in the **Federal Register** at least 60 days before the effective date of such change or addition.

(e) *Actions that normally require an environmental assessment.* When a proposal is not one that normally requires an environmental impact statement and does not qualify as a categorical exclusion, the Regional Director shall prepare an environmental assessment.

Dated: July 28, 1995.

**Harvey G. Ryland,**

*Deputy Director.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 642

[Docket No. 950725189-5189-01; I.D. 062795A]

RIN 0648-XX24

### Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Changes in Catch Limits

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

**ACTION:** Proposed rule.

**SUMMARY:** NMFS proposes changes in the management regimes for the Atlantic migratory groups of king and Spanish mackerel and the Gulf group of king mackerel, in accordance with the framework procedure for adjusting management measures for the Fishery Management Plan for the Coastal Migratory Pelagic Resources (FMP). For Atlantic group king mackerel, this rule proposes changes in the total allowable catch (TAC), establishment of commercial vessel trip limits, and reduction of the recreational bag limit; for Atlantic group Spanish mackerel, increases in the TAC and allocations; and for Gulf group king mackerel, changes in the commercial vessel trip limits. The intended effect of this rule is to protect king and Spanish mackerel from overfishing and continue stock rebuilding programs while still allowing catches by important recreational and commercial fisheries dependent on king and Spanish mackerel.

**DATES:** Written comments must be received on or before August 18, 1995.

**ADDRESSES:** Comments must be mailed to Mark F. Godcharles, Southeast Region, National Marine Fisheries Service, 9721 Executive Center Drive N., St. Petersburg, FL 33702.

Requests for copies of the environmental assessment and regulatory impact review supporting aspects of this action relating to Gulf group mackerel should be sent to the Gulf of Mexico Fishery Management Council, 5401 W. Kennedy Boulevard, Suite 331, Tampa, FL 33609-2486. Requests for comparable documents relating to Atlantic group mackerel should be sent to the South Atlantic Fishery Management Council, Southpark Building, One Southpark Circle, Suite 306, Charleston, SC 29407-4699.

**FOR FURTHER INFORMATION CONTACT:** Mark F. 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 642.

In accordance with the framework procedure of the FMP, the Councils appointed a Stock Assessment Panel (Panel) to assess, on an annual basis, the condition of each stock of king and Spanish mackerel in the management unit, to report its findings, and to make recommendations to the Councils. Based on the Panel's 1995 report and recommendations, advice from the Mackerel Advisory Panels (MAPs) and the Scientific and Statistical Committees (SSCs), and public input, the Councils recommended to the Director, Southeast Region, NMFS (Regional Director), changes to the TAC and allocations for the Atlantic migratory groups of king and Spanish mackerel, reduction of the recreational bag limit in the northern area and establishment of commercial trip limits for Atlantic group king mackerel, and changes in the commercial trip limits for Gulf group king mackerel in the east and west coast sub-zones of the eastern zone. The recommended changes are within the scope of the management measures that may be adjusted, as specified at 50 CFR 642.29. For the 1995-96 fishing year, the Councils recommended no changes for Gulf group Spanish mackerel or for cobia.

Specifically, the Councils recommended that, effective with the fishing year that began April 1, 1995, the annual TAC for the Atlantic migratory group of Spanish mackerel be increased from 9.20 million lb (4.17 million kg) to 9.40 million lb (4.26 million kg) and the annual TAC for the Atlantic migratory group of king mackerel be decreased from 10.00 million lb (4.54 million kg) to 7.30 million lb (3.31 million kg). These recommended TACs are within the range of the acceptable biological catch chosen by the Councils and represent a conservative approach supported by their SSCs and MAPs. Under the provisions of the FMP, the recreational and commercial fisheries are allocated a fixed percentage of the TAC. Under the established percentages, the proposed TACs for the fishing year that commenced April 1, 1995, would be allocated as follows: