

Question: How does the Council want to proceed concerning removal/retention of the commercial and recreational gag, black grouper, and red grouper ACLs and AMs implemented January 31, 2011, through Amendment 17B? If the Council considers the removal of three fish aggregate ACLs/AMs, which amendment should specify the removal (Amendment 24 or Comprehensive ACL Amendment)?

Background

Amendment 16 established a directed commercial quota for gag of 352,940 lbs gw and a recreational allocation of 340,060 lbs gw

Amendment 17B (implemented on January 3, 2011) adopted the gag commercial quota as the ACL and adopted the gag recreational allocation as the gag recreational ACL and established the following: (see text box for regulations):

COMMERCIAL SECTOR

A gag/black/red commercial sector ACL of 662,403 lbs gw

In-season AM

Once this is projected to be met, all shallow water groupers are prohibited.

Post-season AM

None

RECREATIONAL SECTOR

A gag/black/red recreational sector ACL of 648,663 lbs gw

In-season AM

Once this is projected to be met *and* any one of the three species are listed as overfished (currently red grouper is), the three species will be prohibited. Evaluate landings using average as described in the regulations.

Post-season AM

Without regard to overfished status, if landings exceed the ACL, the following year's ACL will be reduced by the overage. Evaluate landings using average as described in the regulations.

Excerpt from 50 CFR 622.49

(4) *Gag, black grouper, and red grouper, combined* —(i) *Commercial fishery.* If commercial landings, as estimated by the SRD, reach or are projected to reach the quota specified in §622.42(e)(8), the AA will file a notification with the Office of the Federal Register to close the commercial fishery for gag, black grouper, red grouper and all other SASWG for the remainder of the fishing year.

(ii) *Recreational fishery.* (A) If recreational landings, as estimated by the SRD, reach or are projected to reach the combined recreational ACL of 648,663 lb (294,229 kg), gutted weight, and gag, black grouper, or red grouper are overfished, based on the most recent Status of U.S. Fisheries Report to Congress, the AA will file a notification with the Office of the Federal Register to close the recreational fishery for gag, black grouper, and red grouper for the remainder of the fishing year. On and after the effective date of such notification, the bag and possession limit of gag, black grouper, and red grouper in or from the South Atlantic EEZ is zero. This bag and possession limit also applies in the South Atlantic on board a vessel for which a valid Federal charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, *i.e.*, in State or Federal waters.

(B) Without regard to overfished status, if gag, black grouper, and red grouper recreational landings exceed the combined ACL, the AA will file a notification with the Office of the Federal Register, at or near the beginning of the following fishing year, to reduce the combined ACL for that fishing year by the amount of the overage.

(C) Recreational landings will be evaluated relative to the ACL as follows. For 2010, only 2010 recreational landings will be compared to the ACL; in 2011, the average of 2010 and 2011 recreational landings will be compared to the ACL; and in 2012 and subsequent fishing years, the most recent 3-year running average recreational landings will be compared to the ACL.

Issue

If approved, the Comprehensive ACL Amendment will implement both commercial-sector and recreational-sector ACLs and AMs for black grouper. If approved, Amendment 24 will implement both commercial-sector and recreational-sector ACLs and AMs for red grouper. Both of these ACLs will be based on SEDAR assessments and SSC recommendations.

(Note: the Comprehensive ACL will implement species complexes for many species but gag and black grouper have individual ACLs, as will red grouper through Amendment 24).

How do the proposed ACLs from SEDAR assessments compare to the aggregate ACLs in place through Amendment 17B?

	Comm. ACL	Rec ACL
17B Aggregate Gag/red/black	662,403 gw Used comm. catch for black (86,886 gw) and comm. catch for red (221,577 gw) to determine aggregate	648,663 gw Used rec. catch for black (31,863 gw) and rec. catch for red (276,740 gw) to determine aggregate
Comp ACL/ACT PROPOSES Black	159,777 ww	ACL: 86,034 ww ACT: 61,084 ww
24 PROPOSES Red	274,000 - 312,550 ww (year 1) (year 1 and goes up in years 2 and 3)	308,990 - 352,450 ww (year 1) (year 1 and goes up in years 2 and 3)

As outlined in the table above, average catch for black and red grouper was used to determine the three species aggregate ACL. *The allowable catch numbers used in Amendment 17B are lower than the allowable catch numbers in the Comprehensive ACL Amendment and Amendment 24.* This could be of concern for the Council as in-season and post-season AMs could be triggered based on catch numbers and not numbers from an assessment.

The IPT discussed removing the three species ACL in the Comprehensive ACL amendment. However, this would leave the Council out of compliance with the MSA as there would not be red grouper ACLs in place; the Comprehensive ACL Amendment is scheduled for implementation before Amendment 24.

	Comp ACL Amendment	Amendment 24
Scoping	Done	Jan/Feb 2011
Approve for PHs	Done	Scheduled for June 2011
PHs	Done Jan/Feb 2011	Scheduled for after June 2011
Submittal for DEIS filing	Scheduled for March 2011	No date identified
Approval by Council to submit to SOC	June 2011 Council meeting	December 2011 Council meeting
Regulations must be implemented by	End of 2011	June 9, 2012

Staff Recommendation to Council

The Council should request clarification from NMFS as to whether an action is needed to remove the three-species aggregate commercial-sector and recreational-sector ACLs/AMs. The justification for this action would be that individual black grouper and red grouper ACLs/AMs (based on SEDAR assessments and SSC recommendations) would be implemented through the Comprehensive ACL Amendment and Amendment 24, respectively. If an action is needed, then the Council should provide guidance to staff on which amendment should include such action.

If it is their intent, the Council could consider adding language to the Comprehensive ACL Amendment that indicates the aggregate ACL would remain intact until Amendment 24 is implemented.

Amendment 24 should continue to have a high priority in terms of Council and NMFS staff time for the following reasons: (1) regulations must be implemented by June 2012 and (2) to decrease the probability of AMs being triggered through the three species aggregate ACLs/AMs in 2012. It is unlikely that the three species ACL would be reached in 2012 for the following reasons: (1) the season begins January 1, 2012, and the three species aggregate could be removed by June 2012 through Amendment 24 and (2) there is a January through April shallow water grouper closure.