

at <http://www.socialsecurity.gov/compassionateallowances/>.

**ADDRESSES:** You may submit written comments about the compassionate allowances initiative with respect to adults and children with cardiovascular disease and multiple organ transplants, as well as topics covered at the hearing by:

(1) e-mail addressed to [Compassionate.Allowances@ssa.gov](mailto:Compassionate.Allowances@ssa.gov); or  
(2) mail to Jamillah Jackson, Deputy Director, Office of Compassionate Allowances and Disability Outreach, ODP, ORDP, Social Security Administration, 4671 Annex Building, 6401 Security Boulevard, Baltimore, MD 21235-6401. We welcome your comments, but we may not respond directly to comments sent in response to this notice of hearing.

**FOR FURTHER INFORMATION CONTACT:** [Compassionate.Allowances@ssa.gov](mailto:Compassionate.Allowances@ssa.gov). You may also mail inquiries about this hearing to Jamillah Jackson, Deputy Director, Office of Compassionate Allowances and Disability Outreach, ODP, ORDP, Social Security Administration, 4671 Annex Building, 6401 Security Boulevard, Baltimore, MD 21235-6401. For information on eligibility or filing for benefits, call our national toll-free number 1-800-772-1213 or TTY 1-800-325-0778, or visit Social Security online, at <http://www.socialsecurity.gov>.

**SUPPLEMENTARY INFORMATION:**

**Background**

Under titles II and XVI of the Act, we pay benefits to individuals who meet our rules for entitlement and have medically determinable physical or mental impairments that are severe enough to meet the definition of disability in the Act. The rules for determining disability can be very complicated, but some individuals have such serious medical conditions that their conditions obviously meet our disability standards with minimal objective medical evidence alone. To better address the needs of these individuals, we are looking into ways to allow benefits as quickly as possible based on minimal objective medical information.

**Will We Respond to Your Comments?**

We will carefully consider your comments, although we will not respond directly to comments sent in response to this notice or the hearing.

**Additional Hearings**

We have held five hearings since December 2007. These hearings were on rare diseases, cancers, traumatic brain

injury and stroke, early-onset Alzheimer's disease and related dementias and schizophrenia. You may access the transcripts of the hearings at <http://www.socialsecurity.gov/compassionateallowances/>. We plan to hold additional hearings on other conditions and will announce those hearings later with notices in the **Federal Register**.

(Catalog of Federal Domestic Assistance Programs Nos. 96.001, Social Security—Disability Insurance; 96.006, Supplemental Security Income.)

**Michael J. Astrue,**  
*Commissioner of Social Security.*  
[FR Doc. 2010-25503 Filed 10-8-10; 8:45 am]

**BILLING CODE 4191-02-P**

**LIBRARY OF CONGRESS**

**Copyright Office**

**37 CFR Part 201**

[Docket No. RM 2010-3]

**Refunds Under the Cable Statutory License**

**AGENCY:** Copyright Office, Library of Congress.

**ACTION:** Notice of proposed rulemaking; correction.

**SUMMARY:** The Copyright Office published in the **Federal Register** of October 4, 2010, a notice of proposed rulemaking concerning refunds under the cable statutory license. This document corrects the date for submitting reply comments.

**FOR FURTHER INFORMATION CONTACT:** Ben Golant, Assistant General Counsel, and Tanya M. Sandros, Deputy General Counsel, Copyright GC/I&R, P.O. Box 70400, Washington, DC 20024. Telephone: (202) 707-8380. Telefax: (202) 707-8366.

**Correction**

In proposed rule RM 2010-3, make the following correction in the Dates section. On page 61117 in the 2nd column, correct the **DATES** caption to read:

**DATES:** Written comments must be received in the Office of the General Counsel of the Copyright Office no later than November 3, 2010. Reply comments must be received in the Office of the General Counsel of the Copyright Office no later than December 3, 2010.

Dated: October 6, 2010.

**Tanya Sandros,**  
*Deputy General Counsel, U.S. Copyright Office.*

[FR Doc. 2010-25652 Filed 10-8-10; 8:45 am]

**BILLING CODE 1410-30-P**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 622**

[Docket No. 0907271173-0475-02]

**RIN 0648-AY11**

**Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery off the Southern Atlantic States; Amendment 17B**

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

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** NMFS issues this proposed rule to implement Amendment 17B to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP), as prepared and submitted by the South Atlantic Fishery Management Council (Council). This proposed rule would, for South Atlantic snapper-grouper, establish annual catch limits (ACLs), and accountability measures (AMs) for eight snapper-grouper species undergoing overfishing; modify management measures to limit total mortality of those species to the ACL; and add ACLs, annual catch targets (ACTs), and AMs to the management measures that may be amended via the framework procedure. This proposed rule is intended to address overfishing of eight snapper-grouper species while maintaining catch levels consistent with achieving optimum yield.

**DATES:** Written comments on this proposed rule must be received no later than 5 p.m., Eastern Time, on November 26, 2010.

**ADDRESSES:** You may submit comments, identified by RIN 0648-AY11, by any one of the following methods:

- **Electronic Submissions:** Submit all electronic public comments via the Federal e-Rulemaking Portal <http://www.regulations.gov>.
  - **Mail:** Kate Michie, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.
- Instructions:* No comments will be posted for public viewing until after the

conclusion of the comment period. All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

To submit comments through the Federal e-Rulemaking Portal: <http://www.regulations.gov>, enter "NOAA-NMFS-2010-0091" in the keyword search, then check the box labeled "Select to find documents accepting comments or submissions", then select "Send a Comment or Submission." NMFS will accept anonymous comments. Enter N/A in the required field if you wish to remain anonymous. Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

Comments received through means not specified in this rule will not be considered.

Copies of Amendment 17B may be obtained from the South Atlantic Fishery Management Council, 4055 Faber Place, Suite 201, North Charleston, SC 29405; *phone*: 843-571-4366 or 866-SAFMC-10 (toll free); *fax*: 843-769-4520; *e-mail*:

[safmc@safmc.net](mailto:safmc@safmc.net). Amendment 17B includes an Environmental Assessment (EA), an Initial Regulatory Flexibility Analysis (IRFA), a Regulatory Impact Review, and a Social Impact Assessment/Fishery Impact Statement.

**FOR FURTHER INFORMATION CONTACT:** Kate Michie, *telephone*: 727-824-5305.

**SUPPLEMENTARY INFORMATION:** The snapper-grouper fishery off the southern Atlantic states is managed under the FMP. The FMP was prepared by the Council and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

### Background

The 2006 revisions to the Magnuson-Stevens Act require that by 2010, FMPs for the fisheries determined by the Secretary to be subject to overfishing must establish a mechanism of specifying ACLs at a level that prevents overfishing and does not exceed the fishing level recommendation of the respective Council's Scientific and Statistical Committee or other established peer review processes.

In the South Atlantic snapper-grouper fishery there are nine species currently

undergoing overfishing including: speckled hind, warsaw grouper, snowy grouper, golden tilefish, black sea bass, red grouper, gag, vermilion snapper, and red snapper. Amendment 17B includes actions to establish ACLs for eight of these species, as well as black grouper, which is neither overfished nor undergoing overfishing. Red snapper overfishing is being addressed separately in Amendment 17A to the FMP.

An ACL is the level of annual catch of a stock or stock complex that is set to prevent overfishing from occurring. An ACL that is met or exceeded serves the basis for triggering an AM. ACLs may incorporate management and scientific uncertainty, and take into account the amount of data available and level of vulnerability to overfishing for each species. Separate ACLs may be established for each sector of a fishery, i.e., commercial and recreational. However, the combined total of all sector ACLs may not exceed the total ACL for a species or species complex.

### Management Measures Contained in This Proposed Rule

#### Speckled Hind and Warsaw Grouper

##### ACLs

For speckled hind and warsaw grouper, the proposed ACL is zero (landed catch). This ACL would prohibit all harvest and possession of speckled hind and warsaw grouper regardless of the depth where they are caught. In order to maintain an ACL of zero for these two species, all fishing for and possession of deepwater snapper-grouper species (snowy grouper, blueline tilefish, yellowedge grouper, misty grouper, queen snapper, and silk snapper) would be prohibited beyond a depth of 240 ft (73 m). By prohibiting harvest and possession of these co-occurring species, fishing mortality of speckled hind and warsaw grouper is expected to decrease.

#### Golden Tilefish

##### Allocations

In order to set sector ACLs for golden tilefish, the Council first designated appropriate sector allocations for the species. The recreational and commercial allocations were based on landings data from the Accumulated Landings System, Marine Recreational Fishing Statistics Survey, and headboat databases. The allocations would be defined using the following formula for each sector: Sector apportionment = (50 percent \* average of long catch range (lb) 1986–2008) + (50 percent \* average of recent catch trend (lb) 2006–2008).

The allocation would be 97 percent commercial and 3 percent recreational.

Amendment 15B defined MSY as the yield produced by  $F_{MSY}$  (fishing mortality at maximum sustainable yield), which is considered a fixed fishing exploitation rate. The value of maximum sustainable yield (MSY) for golden tilefish is 300, 379 lb (136, 250 kg) gutted weight. Beginning in 2010, and corresponding to the yield at  $F_{MSY}$ , the commercial allocation would be 291,369 lb (132,160 kg) gutted weight and the recreational allocation would be 1,625 fish (derived from 9,011 lb (4,078 kg)). The conversion rate of recreational pounds to the number of fish is 5.545. The commercial and recreational allocations specified in 2010 would remain in effect beyond 2010 until modified.

##### ACLs

Separate ACLs are proposed for the commercial and recreational sectors for golden tilefish. The ACLs would be based on the yield associated with  $F_{OY}$  (fishing mortality at optimum yield). Amendment 15B defined optimum yield (OY) as the yield at 75 percent of  $F_{MSY}$ , which is equal to  $F_{OY}$ . Therefore, the commercial and recreational ACLs would be reduced from the allocation values of 291,369 lb (132,160 kg) gutted weight, and 1,625 fish, respectively, to 282,819 lb (128,284 kg) gutted weight, and 1,578 fish, respectively.

##### AMs

Proposed AMs for golden tilefish would be applied separately for each sector. The commercial sector AM for golden tilefish is the previously-implemented quota closure provision that would prohibit the harvest and possession of golden tilefish when the ACL is met or projected to be met. All purchase and sale would then be prohibited, and the prohibition on harvest would apply to all federally permitted vessels regardless of where the golden tilefish are caught, i.e., in state or Federal waters. If the recreational ACL is met or exceeded, the post-season AM for golden tilefish would reduce the length of the following fishing season by the amount necessary to ensure landings do not exceed the recreational sector ACL in the following fishing year. For this post-season AM, NMFS would compare the recreational ACL with recreational landings over a range of years. For 2010, only 2010 landings would be used. For 2011, average landings for 2010 and 2011 would be used. For 2012 and beyond, the most recent 3-year running average would be used.

**Snowy grouper***ACLs*

The commercial quota and recreational allocation for snowy grouper established in Amendment 15B to the FMP would be designated as the commercial and recreational ACLs, respectively, for snowy grouper through Amendment 17B. The snowy grouper ACL would be 82,900 lb (37,603 kg) gutted weight, and the recreational ACL for snowy grouper would be 523 fish.

*AMs*

The commercial sector AM for snowy grouper is the previously-implemented quota closure provision that would prohibit the harvest and possession of snowy grouper when the ACL is met or projected to be met. All purchase and sale would then be prohibited, and the prohibition on harvest would apply to all federally permitted vessels regardless of where the snowy grouper are caught, *i.e.*, in state or Federal waters.

In order to maintain the snowy grouper harvest level at or below the recreational ACL, the recreational AM would reduce the snowy grouper bag limit from one fish per person per day to one fish per vessel per day. If the recreational ACL is met or exceeded, the post-season AM for snowy grouper would be to reduce the length of the following fishing season by the amount necessary to ensure landings do not exceed the recreational sector ACL in the following fishing year. For this post-season AM, NMFS would compare the recreational ACL with recreational landings over a range of years. For 2010, only 2010 landings would be used. For 2011, average landings for 2010 and 2011 would be used. For 2012 and beyond, the most recent 3-year running average would be used.

**Gag***ACLs*

The commercial quota and recreational allocation for gag established in Amendment 16 to the FMP would be designated as the commercial and recreational ACLs, respectively, for gag through Amendment 17B. The commercial ACL for gag would be 352,940 lb (160,091 kg) gutted weight, and the recreational ACL for gag would be 340,060 lb (154,249 kg) gutted weight.

*AMs*

The commercial AM for gag is the previously-implemented quota closure provision that would prohibit the harvest and possession of gag when the ACL for the species is met or projected to be met. All purchase and sale would

then be prohibited, and the prohibition on harvest would apply to all federally permitted vessels regardless of where the gag are caught, *i.e.*, in state or Federal waters. The recreational AM for gag would compare the recreational ACL for the species with landings over a range of years. For 2010, only 2010 landings would be used. For 2011, 2010 and 2011 landings would be used. For 2012 and beyond, a 3-year running average would be used. If gag are overfished, based on the most recent Status of U.S. Fisheries Report to Congress, and the sector ACL is met or projected to be met, harvest and retention of the species would be prohibited. If the sector ACL is exceeded, independent of stock status, the NMFS Assistant Administrator (AA) would file a notification with the Office of the Federal Register, at or near the beginning of the following fishing year, to reduce the sector ACL for that fishing year by the amount of the overage.

**Gag, Black and Red Grouper Aggregate***ACLs*

A species group ACL is proposed for gag, black grouper, and red grouper. The commercial species group ACL or the gag commercial ACL would be used to trigger an AM for the species group. The species group commercial ACL for gag, black grouper, and red grouper combined would be 662,403 lb (300,461 kg) gutted weight, and the species group recreational ACL would be 648,663 lb (294,229 kg) gutted weight. These values are equivalent to the expected catch resulting from the implementation of the commercial quota for gag (designated as the commercial ACL in Amendment 17B) and the bag limits for black and red grouper specified in Amendment 16 to the FMP.

*AMs*

When either the gag ACL or the gag, black grouper, and red grouper aggregate ACL is met or projected to be met, commercial harvest and possession of all South Atlantic shallow-water groupers (gag, black grouper, red grouper, scamp, red hind, rock hind, yellowmouth grouper, tiger grouper, yellowfin grouper, graysby, and coney) would be prohibited. Additionally, all purchase and sale of shallow-water groupers would be prohibited when the ACL is met or projected to be met, and the prohibition on harvest would apply to all federally permitted vessels regardless of where the gag, black grouper, and red grouper are caught, *i.e.*, in state or Federal waters. The recreational AM for gag, black grouper and red grouper would compare the

recreational ACL for the species group with landings over a range of years. For 2010, only 2010 landings would be used. For 2011, 2010 and 2011 landings would be used. For 2012 and beyond, a 3-year running average would be used. If one of these species is overfished, based on the most recent Status of U.S. Fisheries Report to Congress, and the group recreational ACL is met or projected to be met, harvest and retention of the species group would be prohibited. If the group recreational ACL is exceeded, independent of stock status, the AA would file a notification with the Office of the Federal Register, at or near the beginning of the following fishing year, to reduce the group ACL for that fishing year by the amount of the overage.

**Black Sea Bass***ACLs*

The commercial quota and recreational allocation for black sea bass established in Amendment 13C to the FMP would be designated as the commercial and recreational ACLs, respectively, for black sea bass through Amendment 17B. The commercial ACL for black sea bass would be 309,000 lb (140,160 kg) gutted weight, and the recreational ACL for black sea bass would be 409,000 lb (185,519 kg) gutted weight.

*AMs*

The commercial AM for black sea bass is the previously-implemented quota closure provision that would prohibit harvest and possession of black sea bass when the ACL for the species is met or projected to be met. All purchase and sale would then be prohibited, and the prohibition on harvest would apply to all federally permitted vessels regardless of where the black sea bass are caught, *i.e.*, in state or Federal waters. The recreational AM for black sea bass would compare the recreational ACL for the species with landings over a range of years. For 2010, only 2010 landings would be used. For 2011, 2010 and 2011 landings would be used. For 2012 and beyond, a 3-year running average would be used. If black sea bass are overfished, based on the most recent Status of U.S. Fisheries Report to Congress, and the sector ACL is met or projected to be met, harvest and retention of the species would be prohibited. If the sector ACL is exceeded, independent of stock status, the AA would file a notification with the Office of the Federal Register, at or near the beginning of the following fishing year, to reduce the sector ACL for that fishing year by the amount of the overage.

## Vermilion Snapper

### ACLs

The commercial quota and recreational allocation for vermilion snapper established in Amendment 16 to the FMP would be designated as the commercial and recreational ACLs, respectively, for vermilion snapper through Amendment 17B. The commercial ACL for vermilion snapper would be 315,523 lb (143,119 kg) gutted weight (January–June) and 302,523 lb (137,222 kg) gutted weight (July–December), and the recreational ACL for vermilion snapper would be 307,315 lb (139,396 kg) gutted weight.

### AMs

The commercial AM for vermilion snapper is the previously-implemented quota closure provision that would prohibit harvest and possession of vermilion snapper when the ACL for the species is met or projected to be met. All purchase and sale would then be prohibited, and the prohibition on harvest would apply to all federally permitted vessels regardless of where the vermilion snapper are caught, *i.e.*, in state or Federal waters. The recreational AM for vermilion snapper would compare the recreational ACL for the species with landings over a range of years. For 2010, only 2010 landings would be used. For 2011, 2010 and 2011 landings would be used. For 2012 and beyond, a 3-year running average would be used. If vermilion snapper are overfished, based on the most recent Status of U.S. Fisheries Report to Congress, and the sector ACL is met or projected to be met, harvest and retention of the species would be prohibited. If the sector ACL is exceeded, independent of stock status, the AA would file a notification with the Office of the Federal Register, at or near the beginning of the following fishing year, to reduce the sector ACL for that fishing year by the amount of the overage.

### Framework Procedure Modifications

To facilitate timely adjustments to National Standard 1 harvest parameters, the Council has added the ability to adjust ACLs and AMs, and establish and adjust target catch levels, including ACTs, to the current framework procedures. These adjustments or additions may be accomplished through a regulatory amendment which is less time intensive than an FMP amendment. By including ACLs, AMs, and ACTs in the framework procedure for specifying total allowable catch, the Council and NMFS would have the flexibility to expeditiously alter those

harvest parameters as new scientific information becomes available.

### Availability of Amendment 17B

Additional background and rationale for the measures discussed above are contained in Amendment 17B. The availability of Amendment 17B was announced in the **Federal Register** on September 22, 2010, (75 FR 57734). Written comments on Amendment 17B must be received by November 22, 2010. All comments received on Amendment 17B or on this proposed rule during their respective comment periods will be addressed in the preamble to the final rule.

### Additional Measures Contained in This Proposed Rule

The final rule for Amendment 15B to the FMP, published on November 16, 2009 (75 FR 58902), added regulatory language in § 622.45(d)(1) that states, “South Atlantic snapper-grouper harvested or possessed in the EEZ on board a vessel that does not have a valid commercial permit for South Atlantic snapper-grouper, as required under § 622.4(a)(2)(vi), \* \* \* may not be sold or purchased.” However, this requirement was inadvertently not codified in the permits section, under § 622.4(a)(2)(vi), at that time. This rule proposes to revise § 622.4(a)(2)(vi) with the regulatory language that should have been added through the final rule for Amendment 15B.

This rule also proposes to revise regulatory language in § 622.9 that was implemented in the final rule for Amendment 7 to the FMP for the Shrimp Fishery in the South Atlantic Region (Shrimp FMP) (74 FR 50699, October 1, 2009). The final rule removed the requirement for a limited access endorsement to fish for and possess South Atlantic rock shrimp. The endorsements expired on January 27, 2010. However, the regulatory language contained in § 622.9(a)(1) did not include this expiration date, and there was some confusion among stakeholders as to whether rock shrimp fishermen were still required to have the endorsement. This rule proposes to remove reference to the requirement for the rock shrimp endorsement in the VMS regulations because the endorsement is no longer required for this fishery.

These additional revisions are unrelated to the actions contained in Amendment 17B.

### Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator (AA) has

determined that this proposed rule is consistent with the FMP subject to this rulemaking, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

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

NMFS prepared an IRFA, as required by section 603 of the Regulatory Flexibility Act, for this proposed rule. The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the objectives of, and legal basis for this action are contained at the beginning of this section in the preamble and in the SUMMARY section of the preamble. A copy of the full analysis is available from the Council (*see ADDRESSES*). A summary of the IRFA follows.

The proposed rule would introduce several changes to the management of the South Atlantic snapper-grouper fishery. This rule would establish an ACL of zero for speckled hind and warsaw grouper and prohibit fishing for and possession of snowy grouper, blueline tilefish, yellowedge grouper, warsaw grouper, speckled hind, misty grouper, queen snapper, and silk snapper beyond a depth of 240 ft (73 m). This rule would establish a 97 percent commercial and 3 percent recreational allocation of golden tilefish. This rule would establish a commercial ACL (quota) for golden tilefish of 282,819 lb (128,284 kg) gutted weight and recreational ACL of 1,578 fish based on the chosen allocation for golden tilefish. The commercial AM for golden tilefish would be to prohibit the harvest, possession, purchase, and sale of golden tilefish after the quota is met or projected to be met. The recreational AM is specified as follows: if the ACL is exceeded, the AA shall publish a notice to reduce the length of the following fishing season by the amount necessary to ensure landings do not exceed the sector ACL in the following fishing year. The recreational ACL would be compared to recreational landings using only 2010 landings for 2010, an average of 2010 and 2011 landings for 2011, and a 3-year average of landings for 2012 and beyond. This rule would establish a recreational daily bag limit of one snowy grouper per vessel, with a recreational ACL of 523 fish and a recreational AM specified as follows: If the ACL is exceeded, the AA shall publish a notice to reduce the length of the following fishing season by the amount necessary to ensure landings do not exceed the sector ACL in the

following fishing year. The recreational ACL would be compared to recreational landings using only 2010 landings for 2010, an average of 2010 and 2011 landings for 2011, and a 3-year average of landings for 2012 and beyond. This rule would establish an aggregate ACL (quota) for gag, black grouper, and red grouper of 662,403 lb (300,461 kg) gutted weight (commercial) and 648,663 lb (294,229 kg) gutted weight (recreational). This rule, however, would retain the commercial ACL (quota) for gag or 352,940 lb (160,091 kg) gutted weight and recreational ACL for gag of 340,060 lb (154,249 kg) gutted weight. This rule would prohibit the commercial possession of shallow-water groupers (gag, black grouper, red grouper, scamp, red hind, rock hind, yellowmouth grouper, tiger grouper, yellowfin grouper, graysby, and coney) when the gag ACL (currently at 352,940 lb (160,091 kg) gutted weight) or the aggregate gag, black grouper, and red grouper ACL is met or projected to be met. This rule would implement recreational AMs for black grouper, black sea bass, gag, red grouper, and vermilion snapper as follows: If one of these species is determined to be overfished and the species ACL or group ACL is met or projected to be met, prohibit the harvest and retention of the species or species group. If the ACL is exceeded, independent of stock status, the AA shall publish a notice to reduce the species ACL or group ACL in the following fishing season by the amount of the overage. The recreational species ACL or group ACL would be compared to recreational landings using only 2010 landings for 2010, an average of 2010 and 2011 landings for 2011, and a 3-year running average of landings for 2012 and beyond. Finally, this rule would update the framework procedure for specification of Total Allowable Catch (TAC) for the FMP to incorporate ACLs, ACTs, and AMs. This would give NMFS the flexibility to alter those harvest parameters through a regulatory amendment as new scientific information becomes available.

The Magnuson Stevens Act provides the statutory basis for the proposed rule.

No duplicative, overlapping, or conflicting Federal rules have been identified. The proposed rule would not alter existing reporting, record keeping, or other compliance requirements.

The proposed rule is expected to directly affect commercial fishers and for-hire operators. The SBA has established size criteria for all major industry sectors in the U.S. including commercial fish harvesters and for-hire operations. A business involved in fish harvesting is classified as a small

business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of \$4.0 million (NAICS code 114111, finfish fishing) for all its affiliated operations worldwide. For for-hire vessels, the other qualifiers apply and the annual receipts threshold is \$7.0 million (NAICS code 713990, recreational industries).

From 2003–2007, an average of 944 vessels per year was permitted to operate in the commercial snapper-grouper fishery. Of these vessels, 749 held transferable permits and 195 held non-transferable permits. On average, 890 vessels landed 6.43 million lb (2.92 million kg) of snapper-grouper species and 1.95 million lb (0.88 million kg) of other species on snapper-grouper trips. Total dockside revenues from snapper-grouper species stood at \$13.81 million and from other species, at \$2.30 million. Considering revenues from both snapper-grouper and other species, the revenues per vessel were approximately \$18,101. An average of 27 vessels per year harvested more than 50,000 lb (22,680 million kg) of snapper-grouper species per year, generating at least, at an average price of \$2.15 per pound, dockside revenues of \$107,500. Commercial vessels that operate in the snapper-grouper fishery may also operate in other fisheries, the revenues of which cannot be determined with available data and are not reflected in these totals.

Although a vessel that possesses a commercial snapper-grouper permit can harvest any snapper-grouper species, not all permitted vessels or vessels that landed snapper-grouper landed all of the major species in this amendment. The following average number of vessels landed the subject species in 2003–2007: 292 vessels landed gag, 253 vessels landed vermilion snapper, 32 vessels landed speckled hind, 64 vessels landed golden tilefish, 160 vessels landed snowy grouper, 323 vessels landed black grouper, 237 vessels landed black sea bass, and 402 vessels landed red grouper. Combining revenues from snapper-grouper and other species on the same trip, the average revenue per vessel for vessels landing the subject species were \$20,551 for gag, \$28,454 for vermilion snapper, \$6,250 for speckled hind, \$17,266 for golden tilefish, \$7,186 for black grouper, \$19,034 for black sea bass, and \$17,164 for red grouper.

Based on revenue information, all commercial vessels that would be affected by the proposed rule are considered to be small entities.

The for-hire fleet is comprised of charterboats, which charge a fee on a vessel basis, and headboats, which charge a fee on an individual angler (head) basis. For the period 2003–2007, an average of 1,635 vessels was permitted to operate in the snapper-grouper for-hire fishery, of which 82 are estimated to have operated as headboats and 1,553 as charter boats. Within the total number of vessels, 227 also possessed a commercial snapper-grouper permit and would be included in the summary information provided on the commercial sector. The charterboat annual average gross revenue is estimated to range from approximately \$62,000–\$84,000 for Florida vessels, \$73,000–\$89,000 for North Carolina vessels, \$68,000–\$83,000 for Georgia vessels, and \$32,000–\$39,000 for South Carolina vessels. For headboats, the appropriate estimates are \$170,000–\$362,000 for Florida vessels, and \$149,000–\$317,000 for vessels in the other states.

Based on average revenue figures, all for-hire operations that would be affected by the proposed rule are considered to be small entities.

Some fleet activity may exist in both the commercial and for-hire snapper-grouper sectors, but the extent of such is unknown and all vessels are treated as independent entities in this analysis.

The measure to establish an ACL of zero for speckled hind and warsaw grouper, together with the ban on fishing for deepwater species co-occurring with these two species, is expected to reduce net operating revenues of commercial vessels by about \$292,000. This measure is also expected to reduce net operating revenues of for-hire vessels by less than \$102,000.

Establishing a 97 percent commercial and 3 percent recreational allocation of golden tilefish would maintain the long-term and short-term proportional landings history of the commercial and recreational sectors, with possible small short-term changes (depending on the ACL) in net operating revenues of both commercial and for-hire vessels. At this allocation ratio, the corresponding commercial ACL (quota) would be 282,819 lb (128, 284 kg) gutted weight and the recreational allocation would be 1,578 fish (8,747 lb (3,968 kg) gutted weight). The golden tilefish commercial quota in combination with the AM of closing the fishery after the quota is met is expected to reduce net operating revenues of commercial vessels with snapper-grouper permits by about \$8,000. The recreational allocation is expected to result in net revenue reductions of for-hire vessels with snapper-grouper permits by about

\$7,000. It is worth noting, however, that the reduction in net operating revenues of for-hire vessels would not be immediate because the recreational AM would shorten only the subsequent year's fishing season and only when recreational landings over a number of years (except for 2010) exceed the ACL.

Establishing a daily bag limit of one snowy grouper per vessel is expected to reduce net operating revenues of for-hire vessels with snapper-grouper permits by about \$7,000. This reduction in net operating revenues would not be immediate because the recreational AM would shorten only the subsequent year's fishing season and only when recreational landings over a number of years (except for 2010) exceed the ACL.

The combined measures of retaining the commercial ACL for gag of 352,940 lb (160,091 kg) gutted weight, establishing an aggregate commercial ACL for gag, red grouper, and black grouper of 662,403 lb (300,461 kg) gutted weight, and closing the fishery when the gag ACL or the aggregate ACL is reached is expected to reduce net operating revenues of commercial vessels by about \$103,000. For the recreational component of the snapper-grouper fishery, the combined measures of retaining the recreational ACL for gag of 340,060 lb (154,249 kg) gutted weight and establishing an aggregate recreational ACL for gag, red grouper, and black grouper of 648,663 lb (294,229 kg) gutted weight are not expected to affect the net operating revenues of for-hire vessels with snapper-grouper permits because these are the expected landings from implementation of previous amendments, notably Amendment 16 to the FMP. There is a possibility that the recreational AM of prohibiting the harvest and retention of an overfished species (black sea bass, vermilion snapper, gag, red grouper, or black grouper) when the sector ACL is met or projected to be met would have negative impacts on for-hire vessels with snapper-grouper permits fishing for black sea bass. Under this AM, for-hire vessels with snapper-grouper permits could potentially lose about \$860,000 in net revenues. This reduction is likely to be an overestimate for at least two reasons. First, the method used in estimating the economic effects on the recreational sector likely overestimated the number of headboat angler trips affected by the measure. Second, the trend of recreational black sea bass landings has been downwards due to the implementation of more restrictive measures provided in previous amendments. Therefore, using average landings over the period 2005–2008

inflated the landings when compared to the ACL.

Updating the framework procedure for specification of TAC has no direct effects on the net operating revenues of commercial and for-hire vessels with snapper-grouper permits.

The short-term reductions in the net revenues of commercial vessels due to the proposed rule may be considered relatively small. On the recreational side, only the AM for black sea bass may be considered to have relatively substantial economic effects on for-hire vessels.

Five alternatives, including the proposed action, were considered for establishing an ACL for speckled hind and warsaw grouper. The first alternative to the proposed action, the no action alternative, would not conform to the requirements of the Magnuson-Stevens Act, as reauthorized in 2006, to establish an ACL for the subject species. The second alternative to the proposed action would establish an ACL of 0 for speckled hind and warsaw grouper but would not close any areas to fishing for deepwater species that co-occur with these two species. Although this alternative would have smaller negative economic effects on small entities than the proposed action, it would not be sufficient to end overfishing of speckled hind and warsaw grouper due to discard mortality from fishing for other co-occurring deepwater species. The third alternative to the proposed action is the same as the proposed action, except that the fishing prohibition for other co-occurring deepwater species would apply to all depths. In this case, this alternative would result in greater negative economic effects on small entities than the proposed action. The fourth alternative to the proposed action is similar to the proposed action, except that the prohibition on fishing for other co-occurring deepwater species would be beyond 300 ft (92 m). With smaller closed areas, this alternative would result in slightly smaller negative economic effects on small entities. On the other hand, this alternative would provide less protection for adult speckled hind and warsaw grouper than the proposed action. The possibility of continued overfishing for the subject species may still occur under this alternative.

Four alternatives, including the proposed action, were considered for the golden tilefish allocation. The first alternative to the proposed action, the no action alternative, would not establish a commercial and recreational allocation for golden tilefish. Without a defined sector allocation, it would be

difficult to define sector ACLs and to take corrective actions should the sector ACLs or overall ACL be exceeded. This would weaken the ability of fishery managers to effectively manage the stock. The second alternative to the proposed action would establish a 96 percent commercial and 4 percent recreational allocation. This allocation is very close to that provided under the proposed action, and thus its economic effects would differ only minimally from those of the proposed action. This alternative uses only the most current landings records (2006–2008) while the proposed action uses both the long-run (1986–2008) and short-run (2006–2008) landings history. The third alternative to the proposed action would establish a 50 percent commercial and 50 percent recreational allocation. This alternative would create significant disruptions to the commercial sector operations, and thus would impose relatively large costs to this sector. The recreational sector would stand to gain from this allocation, but whether or not the gains to the recreational sector would outweigh losses to the commercial sector cannot be determined. At least in the short-run and given the current bag limit of one fish per person per day, benefits to the recreational sector would be relatively small and would not compensate for the losses in the commercial sector. Thus, the expected net economic effects of this alternative in the short-run would be negative.

Five alternatives, including the proposed action, were considered for the golden tilefish ACL and AM. The first alternative to the proposed action, the no action alternative, would retain the current ACL (quota) for the commercial sector based on  $F_{MSY}$  and would not establish an ACL and AM for the recreational sector. The current AM would close all fishing for golden tilefish once the commercial quota is reached. This alternative would not add any more fishery restrictions and economic losses to the fishery participants, but it would be less conservative than the proposed action in rebuilding the stock. In addition, it would provide less flexibility in implementing sector-specific AMs. The second alternative to the proposed action would establish a single commercial and recreational ACL which would combine the commercial ACL at the  $F_{OY}$  level and the recreational allowable harvest at the OY level. The AM would prohibit commercial and recreational harvest when the ACL is projected to be met. This alternative would result in approximately the same economic losses to the commercial

sector as the proposed action. There is some potential for this alternative to result in smaller economic losses to the recreational sector than the proposed action, especially if only the commercial landings were effectively monitored because then the recreational fishing season would remain open longer. But to the extent that the AM under this alternative would be imposed in-season while that of the proposed action only in subsequent years, the economic effects of this alternative over time could very well exceed those of the proposed action. The third alternative to the proposed action would establish a recreational AM of one golden tilefish per vessel per day when the single ACL (sum of the commercial ACL at the F<sub>OY</sub> level and recreational harvest at the OY level) is met or projected to be met. This alternative is likely to result in smaller economic losses to the recreational sector than the proposed action by maintaining a year-round recreational fishing season although at very limited bag limit. However, because this alternative requires an in-season adjustment in lieu of subsequent-year adjustments, as under the proposed action, the resulting economic losses over time due to this alternative could exceed those of the proposed action. The fourth alternative to the proposed action would establish a commercial and recreational ACL based on the yield at F<sub>OY</sub> for the commercial fishery. The AM for both sectors would be to prohibit harvest, possession, and retention of golden tilefish when commercial landings exceed the ACL. This alternative would have the same economic effects on the commercial sector as the proposed action, but losses to the recreational sector would likely exceed those of the proposed action.

Four alternatives, including the proposed action, were considered for establishing a snowy grouper ACL and AM. The first alternative, the no action alternative, to the proposed action would retain the commercial ACL (quota) of 82,900 lb (37,603 kg) gutted weight as the ACL based on the current TAC of 87,254 lb (39,578 kg) gutted weight; would retain the commercial AM which is to prohibit harvest, possession, and retention of snowy grouper when the quota is met or projected to be met; would maintain the recreational ACL of 523 fish; and, would not implement a recreational AM. This alternative would not add any restrictions to either the commercial or recreational sector. The absence of an AM for the recreational sector would make it difficult to implement sector-specific adjustments. The second

alternative to the proposed action would establish a single commercial/recreational ACL based on the current TAC of 87,254 lb (39,578 kg) gutted weight, and the AM for both sectors would be a closure of the fishery when the ACL is met or projected to be met. This alternative may result in slightly better economic effects on the commercial sector than the proposed action or the no action alternative, but this slight advantage of the commercial sector would come at the expense of the recreational sector. In effect, this alternative would have slightly larger short-run economic losses on the recreational sector than the proposed action. In addition, this alternative would not allow for sector-specific adjustments should ACL overages occur. The third alternative to the proposed action would establish a recreational AM of one fish per vessel per day when the commercial quota is met or projected to be met. The commercial AM would be a fishery closure when the quota is met. This alternative would have similar economic effects on the commercial sector as the no action alternative and slightly lower short-run negative effects on the recreational sector than the proposed action. However, unlike the proposed action, this alternative could result in overages in the recreational sector without a possible compensating adjustment in succeeding years, thereby potentially resulting in less protection to the stock.

Five alternatives, two of which comprise the proposed action, were considered for the black grouper, black sea bass, gag, red grouper, and vermilion snapper ACL, AM, and ACT. The alternative for establishing commercial and recreational ACLs consisted of two sub-alternatives, one of which is the proposed action. The ACT alternative for the recreational sector consisted of three sub-alternatives, none of which were selected as the proposed action. The AM alternative for the recreational sector consisted of three sub-alternatives, one of which is the proposed action. The first alternative to the proposed action, the no action alternative, would retain the commercial and recreational ACLs for black sea bass, gag, and vermilion snapper and would not establish commercial and recreational ACLs for black grouper and red grouper. This alternative would not comply with the requirements of the Magnuson-Stevens Act, as reauthorized in 2006. The second alternative to the proposed action (only alternative to the proposed action for commercial and recreational ACLs) would establish black grouper

commercial and recreational ACLs of 86,886 lb (39,411 kg) gutted weight and 31,863 lb (14,453 kg) gutted weight, respectively. It would also establish red grouper commercial and recreational ACLs of 221,577 lb (100,505 kg) gutted weight and 276,740 lb (125,527 kg) gutted weight, respectively. This alternative would have biological effects similar to those of the proposed action. However, it could result in slightly worse economic effects than the proposed action because it would allow less flexibility for small entities in adjusting their fishing operations with respect to gag, black grouper, and red grouper. The third alternative to the proposed action for the recreational AM consisted of two sub-alternatives. The first sub-alternative would require the RA to reduce the length of the following fishing year if the ACL were exceeded in the current year. Although this alternative would provide less negative effects in the short-run, it would provide fewer biological benefits than the proposed action, particularly with respect to overfished species, so as to delay further the generation of economic benefits from the fishery. The second sub-alternative would close the fishery if the sector ACT were exceeded for an overfished species or species group and would require the AA to reduce the sector ACT the following year. By not selecting any ACT, this alternative would not be a viable alternative. If ACTs were selected, this alternative would likely result in larger short-run economic losses than the proposed alternative.

Two alternatives, including the proposed action, were considered for updating the framework procedure for specification of TAC in the FMP to incorporate ACLs, ACTs, and AMs. The only alternative to the proposed action, the no action alternative, would delay the implementation or modification of ACLs, ACTs, and AMs when new scientific information becomes available because this would require the FMP amendment process which would incur more administrative costs than the proposed action.

#### List of Subjects in 50 CFR Part 622

Fisheries, Fishing, Puerto Rico, Reporting and recordkeeping requirements, Virgin Islands.

Dated: October 5, 2010.

**Samuel D. Rauch III,**

*Deputy Assistant Administrator For Regulatory Programs, National Marine Fisheries Service.*

For the reasons set out in the preamble, 50 CFR part 622 is proposed to be amended as follows:

**PART 622—FISHERIES OF THE CARIBBEAN, GULF, AND SOUTH ATLANTIC**

1. The authority citation for part 622 continues to read as follows:

**Authority:** 16 U.S.C. 1801 *et seq.*

2. In § 622.2, the definitions of “Deep-water grouper (DWG)” and “Shallow-water grouper (SWG)” are revised and definitions of “Deep-water snapper-grouper (DWSG)” and “South Atlantic shallow-water grouper (SASWG)” are added in alphabetical order to read as follows:

**§ 622.2 Definitions and acronyms.**

*Deep-water grouper (DWG)* means, in the Gulf, yellowedge grouper, misty grouper, warsaw grouper, snowy grouper, and speckled hind. In addition, for the purposes of the IFQ program for Gulf groupers and tilefishes in § 622.20, scamp are also included as DWG as specified in § 622.20(b)(2)(vi).

*Deep-water snapper-grouper (DWSG)* means, in the South Atlantic, yellowedge grouper, misty grouper, warsaw grouper, snowy grouper, speckled hind, blueline tilefish, queen snapper, and silk snapper.

*Shallow-water grouper (SWG)* means, in the Gulf, gag, red grouper, black grouper, scamp, yellowfin grouper, rock hind, red hind, and yellowmouth grouper. In addition, for the purposes of the IFQ program for Gulf groupers and tilefishes in § 622.20, speckled hind and warsaw grouper are also included as SWG as specified in § 622.20(b)(2)(v).

*South Atlantic shallow-water grouper (SASWG)* means, in the South Atlantic, gag, black grouper, red grouper, scamp, red hind, rock hind, yellowmouth grouper, tiger grouper, yellowfin grouper, graysby, and coney.

3. In § 622.4, the first sentence of paragraph (a)(2)(vi) is revised to read as follows:

**§ 622.4 Permits and fees.**

- (a) \* \* \*
- (2) \* \* \*

(vi) \* \* \* For a person aboard a vessel to be eligible for exemption from the bag limits for South Atlantic snapper-grouper in or from the South Atlantic EEZ, to sell South Atlantic snapper-grouper in or from the South Atlantic EEZ, to engage in the directed fishery for tilefish in the South Atlantic EEZ, to use a longline to fish for South Atlantic snapper-grouper in the South Atlantic EEZ, or to use a sea bass pot in the South Atlantic EEZ between

35°15.19' N. lat. (due east of Cape Hatteras Light, NC) and 28°35.1' N. lat. (due east of the NASA Vehicle Assembly Building, Cape Canaveral, FL), a commercial vessel permit for South Atlantic snapper-grouper must have been issued to the vessel and must be on board. \* \* \*

4. In § 622.9, the first sentence of paragraph (a)(1) is revised to read as follows:

**§ 622.9 Vessel monitoring systems (VMSs).**

- (a) \* \* \*
- (1) \* \* \*

An owner or operator of a vessel that has been issued a limited access endorsement for South Atlantic rock shrimp (until January 27, 2010) or a Commercial Vessel Permit for Rock Shrimp (South Atlantic EEZ) must ensure that such vessel has an operating VMS approved by NMFS for use in the South Atlantic rock shrimp fishery on board when on a trip in the South Atlantic. \* \* \*

5. In § 622.32, paragraph (c)(3) is removed and paragraph (b)(3)(vi) is added to read as follows:

**§ 622.32 Prohibited and limited-harvest species.**

- (b) \* \* \*
- (3) \* \* \*

(vi) Speckled hind and warsaw grouper may not be harvested or possessed in or from the South Atlantic EEZ. Such fish caught in the South Atlantic EEZ must be released immediately with a minimum of harm. These restrictions also apply in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, *i.e.*, in state or Federal waters.

6. In § 622.35, the first sentence of paragraph (j) is revised and paragraph (o) is added to read as follows:

**§ 622.35 Atlantic EEZ seasonal and/or area closures.**

(j) \* \* \* During January through April each year, no person may fish for, harvest, or possess in or from the South Atlantic EEZ any SASWG (gag, black grouper, red grouper, scamp, red hind, rock hind, yellowmouth grouper, tiger grouper, yellowfin grouper, graysby, and coney). \* \* \*

(o) *Depth closure for deep-water snapper-grouper (DWSG)*. No person

may fish for or possess DWSG (yellowedge grouper, misty grouper, warsaw grouper, snowy grouper, speckled hind, blueline tilefish, queen snapper, and silk snapper) in or from the South Atlantic EEZ offshore of rhumb lines connecting, in order, the following points:

Point	North lat.	West long.
A	36°31'01"	74°48'10"
B	35°57'29"	74°55'49"
C	35°30'49"	74°49'17"
D	34°19'41"	76°00'21"
E	33°13'31"	77°17'50"
F	33°05'13"	77°49'24"
G	32°24'03"	78°57'03"
H	31°39'04"	79°38'46"
I	30°27'33"	80°11'39"
J	29°53'21"	80°16'01"
K	29°24'03"	80°16'01"
L	28°19'29"	80°00'27"
M	27°32'05"	79°58'49"
N	26°52'45"	79°58'49"
O	26°03'36"	80°04'33"
P	25°31'03"	80°04'55"
Q	25°13'44"	80°09'40"
R	24°59'09"	80°19'51"
S	24°42'06"	80°46'38"
T	24°33'53"	81°10'23"
U	24°25'20"	81°50'25"
V	24°25'49"	82°11'17"
W	24°21'35"	82°22'32"
X	24°21'29"	82°42'33"
Y	24°25'37"	83°00'00"

7. In § 622.39, paragraph (d)(1)(ii)(B) is revised to read as follows:

**§ 622.39 Bag and possession limits.**

- (d) \* \* \*
- (1) \* \* \*
- (ii) \* \* \*

(B) No more than one fish per vessel may be a snowy grouper;

8. In § 622.42, revise paragraphs (e)(1), (e)(2), (e)(5), and (e)(6); and paragraph (e)(8) is added to read as follows:

**§ 622.42 Quotas.**

- (e) \* \* \*

(1) *Snowy grouper*—82,900 lb (37,603 kg).

(2) *Golden tilefish*—282,819 lb (128,284 kg).

(5) *Black sea bass*—309,000 lb (140,160 kg).

(6) *Red porgy*—190,050 lb (86,205 kg).

(8) *Gag, black grouper, and red grouper, combined*—662,403 lb (300,461 kg).

9. In § 622.43, the heading for paragraph (a)(5) and paragraph (a)(5)(iii) are revised to read as follows:



**622.43 Closures.**

(a) \* \* \*

(5) *South Atlantic gag, black grouper, red grouper, greater amberjack, snowy grouper, golden tilefish, vermilion snapper, black sea bass, and red porgy.*

\* \* \* \* \*

(iii) For gag and for gag, black grouper, and red grouper, combined, when the appropriate commercial quota is reached, the provisions of paragraphs (a)(5)(i) and (ii) of this section apply to gag and all other SASWG.

\* \* \* \* \*

10. In § 622.44, paragraph (c)(3) is revised to read as follows:

**§ 622.44 Commercial trip limits.**

\* \* \* \* \*

(c) \* \* \*

(3) *Snowy grouper.* Until the quota specified in § 622.42(e)(1) is reached—100 lb (45 kg). See § 622.43(a)(5) for the limitations regarding snowy grouper after the fishing year quota is reached.

\* \* \* \* \*

11. In § 622.48, paragraph (f) is revised to read as follows:

**§ 622.48 Adjustment of management measures.**

\* \* \* \* \*

(f) *South Atlantic snapper-grouper and wreckfish.* Biomass levels, age-structured analyses, target dates for rebuilding overfished species, MSY, ABC, TAC, quotas, annual catch limits (ACLs), target catch levels, accountability measures (AMs), trip limits, bag limits, minimum sizes, gear restrictions (ranging from regulation to complete prohibition), seasonal or area closures, definitions of essential fish habitat, essential fish habitat, essential fish habitat HAPCs or Coral HAPCs, and restrictions on gear and fishing activities applicable in essential fish habitat and essential fish habitat HAPCs.

\* \* \* \* \*

12. In § 622.49, paragraph (b) is added to read as follows:

**§ 622.49 Accountability measures.**

\* \* \* \* \*

(b) *South Atlantic snapper-grouper.*

(1) *Golden tilefish*—(i) *Commercial fishery.* If commercial landings, as estimated by the SRD, reach or are projected to reach the quota specified in § 622.42(e)(2), the AA will file a notification with the Office of the Federal Register to close the commercial fishery for the remainder of the fishing year.

(ii) *Recreational fishery.* If recreational landings, as estimated by the SRD, exceed the recreational annual catch limit (ACL) of 1,578 fish, 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 length of the following recreational fishing season by the amount necessary to ensure recreational landings do not exceed the recreational ACL in the following fishing year. 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.

(2) *Snowy grouper*—(i) *Commercial fishery.* If commercial landings, as estimated by the SRD, reach or are projected to reach the quota specified in § 622.42(e)(1), the AA will file a notification with the Office of the Federal Register to close the commercial fishery for the remainder of the fishing year.

(ii) *Recreational fishery.* If recreational landings, as estimated by the SRD, exceed the recreational ACL of 523 fish, 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 length of the following recreational fishing season by the amount necessary to ensure recreational landings do not exceed the recreational ACL in the following fishing year. 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.

(3) *Gag*—(i) *Commercial fishery.* If commercial landings, as estimated by the SRD, reach or are projected to reach the quota specified in § 622.42(e)(7), the AA will file a notification with the Office of the Federal Register to close the commercial fishery for gag 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 recreational ACL of 340,060 lb (154,249 kg), gutted weight, and gag 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 gag recreational fishery for the remainder of the fishing year. On

and after the effective date of such notification, the bag and possession limit for gag 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 recreational landings exceed the 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 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.

(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.

(5) *Black sea bass*—(i) *Commercial fishery*. If commercial landings, as estimated by the SRD, reach or are projected to reach the quota specified in § 622.42(e)(5), the AA will file a notification with the Office of the Federal Register to close the commercial fishery 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 recreational ACL of 409,000 lb (185,519 kg), gutted weight, and black sea bass 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 black sea bass for the remainder of the fishing year. On and after the effective date of such notification, the bag and possession limit of black sea bass 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 black sea bass recreational landings exceed the 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 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.

(6) *Vermilion snapper*—(i) *Commercial fishery*. If commercial landings, as estimated by the SRD, reach or are projected to reach a quota specified in § 622.42(e)(4)(I) or (ii), the AA will file a notification with the Office of the Federal Register to close the commercial fishery for that portion of the fishing year applicable to the respective quota.

(ii) *Recreational fishery*. (A) If recreational landings, as estimated by the SRD, reach or are projected to reach the recreational ACL of 307,315 lb

(139,396 kg), gutted weight, and vermilion snapper 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 vermilion snapper for the remainder of the fishing year. On and after the effective date of such notification, the bag and possession limit of vermilion snapper 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 vermilion snapper recreational landings exceed the 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 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.

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