

the proceeding can be limited to the grounds in dispute having a genuine issue of material fact. The disposition of the fact-finding proceeding will be documented by the SDO. The standard of proof for determining the disputed facts is preponderance of the evidence.

c. Compiling the Administrative Record. During the process, the NCUA shall maintain and document all information considered by the SDO to include the ARM, the PMIO (including mitigating factors) and transcripts of any fact-finding proceedings. This is the Administrative Record. The following records, in addition to any other similar materials, shall also be included if considered by the SDO: Emails; notes; contract documents; newspaper articles; and summaries of oral briefings and contractor submissions. Any information not relied on by the SDO should not be included. Once the SDO issues a final decision, the contractor may request a copy of the Administrative Record. The SDO may deny the request or withhold or redact part of the Administrative Record if warranted under applicable law or because of parallel proceedings.<sup>17</sup> In any circumstance where the SDO redacts or withholds all or part of the Administrative Record, the SDO will provide the reasons for doing so to the contractor in writing.

d. Final Decision. The SDO shall issue a written final decision based on the Administrative Record. The SDO shall issue a conviction-based debarment within 30 working days after closing the Administrative Record and within 45 working days of closing the Administrative Record for a fact-based suspension or debarment. The SDO has discretion to extend these deadlines. The Administrative Record will be deemed closed when the SDO Admin submits all evidence to the SDO for a final decision. The SDO Admin will advise the contractor in writing promptly after the Administrative Record has been closed, including the date it was closed. All correspondence shall be sent USPS certified mail, return receipt requested, by the SDO Admin. The SDO can take the following actions in a final decision:

i. Not Debar the Contractor. The SDO may decide not to debar the contractor. The decision shall include, if applicable, referral to the Notice of

Proposed Debarment; a summary of proceedings; the identities of affiliates or imputed conduct; and the reasons for not debarring (for example, an Administrative Agreement; mitigating factors; or remedial measures taken by the contractor). The decision shall notify the contractor that it may request a copy of the Administrative Record and give notice of the effective date of the decision. The SDO Admin will remove the contractor's name from SAM.

ii. Terminate the Suspension. The SDO may decide to terminate the suspension. The decision shall include, if applicable, referral to the Notice of Suspension; a summary of proceedings; the identities of affiliates or imputed conduct; and the reason for terminating the Suspension (for example, an Administrative Agreement; mitigating factors; or remedial measures taken by the contractor). The decision shall notify the contractor that it may request a copy of the Administrative Record and give notice of the effective date of the decision. The SDO Admin will remove the contractor's name from SAM.

iii. Debar the Contractor. The SDO may decide to debar the contractor. This decision must be based on the preponderance of the evidence. The decision shall include, if applicable, referral to the Notice of Proposed Debarment; a summary of proceedings; identities of affiliates or imputed conduct; the information considered by the SDO; the reasons for debarring; the scope of ineligibility; the consequences of debarment (application across the Executive Branch); and the effective dates of debarment. The decision shall notify the contractor that it may request a copy of the Administrative Record. The SDO Admin will enter the debarred contractor into SAM.

iv. Enter into an Administrative Agreement. At any time during the proceedings, the SDO may negotiate an Administrative Agreement with the contractor. An Administrative Agreement applies across the Executive Branch when entered into SAM. The terms of the Administrative Agreement and contents of the Agreement will be determined on a case-by-case basis.

e. Contractor's Remedy. After a decision is made, a suspended or debarred contractor may seek judicial review. OGC (in coordination with the Department of Justice, as appropriate or required) will work with the referring office, the SDO, and OCFO to litigate these claims.

H. NCUA Action after a Decision. If a suspension or debarment is imposed, NCUA offices must take steps to ensure the contractor does not receive any new contracts. Upon the effective date of

SAM listing, the NCUA must not solicit offers from, award contracts to, or consent to contracts with ineligible contractors. Suspended or debarred contractors may continue performing current contracts (unless those contracts are terminated or voided) but cannot (a) add new work, exercise options, or otherwise extend the duration of the contract or order; (b) issue task orders exceeding the guaranteed minimum under indefinite quantity contracts; or (c) place orders under blanket purchase agreements or basic ordering agreements. The NCUA must review any current contracts held by the contractor to determine whether to terminate or void those contracts. A decision to terminate or void a contract requires OGC concurrence.

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 622

[Docket No. 170413393-8178-01]

RIN 0648-BG83

#### Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Modifications to Individual Fishing Quota Programs

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

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

**SUMMARY:** NMFS proposes to implement management measures described in Amendment 36A to the Fishery Management Plan (FMP) for the Reef Fish Resources of the Gulf of Mexico (Gulf) (Amendment 36A), as prepared by the Gulf of Mexico Fishery Management Council (Council). This proposed rule would require owners or operators of federally permitted commercial Gulf reef fish vessels landing any commercially harvested, federally managed reef fish from the Gulf to provide notification prior to landing and to land at approved locations; require shares from the red snapper individual fishing quota (IFQ) (RS-IFQ) program and the groupers and tilefishes IFQ (GT-IFQ) program that are in non-activated IFQ accounts to be returned to NMFS for redistribution; and allow NMFS to withhold a portion

<sup>17</sup> Parallel proceedings occur when two or more contemporaneous legal actions are initiated by different Government entities against the same contractor, and involving the same material facts. Often these arise when an agency has suspended or proposed a contractor for debarment and the Department of Justice is investigating or prosecuting the contractor for the same misconduct.

of IFQ allocation at the start of a fishing year equal to an anticipated commercial quota reduction. The purpose of this proposed rule is to improve compliance and increase management flexibility in the RS-IFQ and GT-IFQ programs, and increase the likelihood of achieving optimum yield (OY) for Gulf reef fish stocks managed under these programs.

**DATES:** Written comments must be received by April 20, 2018.

**ADDRESSES:** You may submit comments on the proposed rule identified by “NOAA-NMFS-2017-0060” by either of the following methods:

- **Electronic Submission:** Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to [www.regulations.gov/#/docketDetail;D=NOAA-NMFS-2017-0060](http://www.regulations.gov/#/docketDetail;D=NOAA-NMFS-2017-0060), click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.

- **Mail:** Submit all written comments to Peter Hood, NMFS Southeast Regional Office, 263 13th Avenue South, St. Petersburg, FL 33701.

**Instructions:** Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on [www.regulations.gov](http://www.regulations.gov) without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirement contained in this proposed rule may be submitted to Adam Bailey, NMFS Southeast Regional Office (see mailing address above), by email to [OIRA\\_Submission@omb.eop.gov](mailto:OIRA_Submission@omb.eop.gov), or by fax to 202-395-5806.

Electronic copies of Amendment 36A, which includes an environmental assessment, a fishery impact statement, a regulatory impact review, and a Regulatory Flexibility Act (RFA) analysis may be obtained from the Southeast Regional Office website at [http://sero.nmfs.noaa.gov/sustainable\\_fisheries/gulf\\_fisheries/reef\\_fish/2017/A36A\\_comm\\_IFQ/am36Aindex.html](http://sero.nmfs.noaa.gov/sustainable_fisheries/gulf_fisheries/reef_fish/2017/A36A_comm_IFQ/am36Aindex.html).

**FOR FURTHER INFORMATION CONTACT:** Peter Hood, NMFS Southeast Regional Office, telephone: 727-824-5305, email: [peter.hood@noaa.gov](mailto:peter.hood@noaa.gov); IFQ Customer Service, telephone: 1-866-425-7627,

Monday through Friday from 8 a.m. to 4:30 p.m., eastern time.

**SUPPLEMENTARY INFORMATION:** NMFS and the Council manage the Gulf reef fish fishery under the FMP. The FMP was prepared by the Council and is implemented by NMFS through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) (16 U.S.C. 1801 *et seq.*).

The Magnuson-Stevens Act requires NMFS and regional fishery management councils to prevent overfishing and achieve, on a continuing basis, the OY from federally managed fish stocks. These mandates are intended to ensure fishery resources are managed for the greatest overall benefit to the nation, particularly with respect to providing food production and recreational opportunities, and protecting marine ecosystems.

### Background

There are two commercial IFQ programs in the Gulf. Amendment 26 to the FMP established the RS-IFQ program, and Amendment 29 to the FMP established the GT-IFQ program. The RS-IFQ program manages commercial harvest of red snapper and was implemented on January 1, 2007 (71 FR 67447, November 22, 2006). The GT-IFQ program manages commercial harvest of multiple species of groupers and tilefishes, as specified in 50 CFR 622.22(a), and was implemented on January 1, 2010 (74 FR 44732, August 31, 2009). Both IFQ programs share a single Web-based accounting and reporting system.

The Council began the development of Amendment 36 to the FMP in response to a 5-year review of the RS-IFQ Program completed in 2013. This review evaluated the progress of the RS-IFQ program towards achieving the stated program goals of reducing overcapacity in the fishery and eliminating problems associated with race-to-fish (derby) fishing. The Council also received input on the program from some of their advisory panels as well as from the public. As a result, the suggested modifications to the RS-IFQ program became complex, and the Council split the numerous potential actions into two FMP amendments, Amendments 36A and 36B. The scope of the actions was also expanded to include revisions to the GT-IFQ program because management, as well as the goals and objectives, of this program are similar to the RS-IFQ program. Amendment 36A addresses compliance and program flexibility issues, while Amendment 36B

addresses program participation and the distribution of IFQ shares and allocation in the programs.

### Management Measures Contained in This Proposed Rule

This proposed rule would require that the owner or operator of a commercial reef fish permitted vessel landing any commercially harvested Gulf reef fish, or Florida Keys/East Florida hogfish harvested in the Gulf, to notify NMFS between 3 and 24 hours in advance of landing and to land at approved locations. In addition, the proposed rule would permanently return to NMFS any IFQ shares contained in RS-IFQ or GT-IFQ accounts that have not been activated since the current Web-based system was put in place on January 1, 2010. Finally, the proposed rule would allow NMFS to withhold distribution of IFQ allocation on January 1, the beginning of the fishing year, if a reduction in the commercial quota for any IFQ species or multi-species group is expected to be implemented in that same fishing year.

### Landing Notification

Currently, to improve compliance with the IFQ programs, vessel owners or operators with commercial Gulf reef fish permits are required to notify NMFS between 3 and 24 hours in advance of landing any commercially harvested species managed under the IFQ programs (IFQ species). The advance landing notification must provide the vessel identification number, the landing date and time, the approved landing location, the name and address of the IFQ dealers where the species will be landed, and the estimated weight of IFQ species to be landed. Although the advance landing notifications help with the enforcement of the IFQ programs, one of the conclusions from a 5-year review of the RS-IFQ Program was additional enforcement efforts may be necessary to deter IFQ landing violations.

The proposed rule would expand the requirement for an advance landing notification to all commercial trips that land Gulf reef fish species or Florida Keys/East Florida hogfish harvested in the Gulf even if no IFQ species are on board. Note that the single hogfish stock in the Gulf was recently split into a West Florida stock and a Florida Keys/East Florida stock, separated at 25°09' N lat. in Gulf Federal waters off the west coast of Florida (82 FR 34574 and 82 FR 34584, July 25, 2017). The management measures for the Florida Keys/East Florida stock are developed by the South Atlantic Fishery Management Council, but commercial vessels fishing

for this stock in Gulf Federal waters are required to have a Federal commercial permit for Gulf reef fish and are required to follow the reporting requirements associated with this permit.

The vessel owner or operator would notify NMFS at least 3 hours, but no more than 24 hours, in advance of landing on each trip. The landing notification would report the vessel identification number, the date and time of landing, and the approved landing location. This notification would be submitted via the vessel's existing onboard vessel monitoring system (VMS), but could also be submitted by other NMFS approved methods (e.g., by phone) if they are developed at a later time. Requiring notification in advance of landing any federally managed reef fish from the Gulf is expected to help deter fishermen from illegally landing IFQ species or reporting IFQ species as another species (e.g., red snapper reported as vermilion snapper) because law enforcement and port agents would be informed in advance of all reef fish trips returning to port and can meet vessels to inspect landings. If any IFQ species are to be landed, all regulations under the applicable IFQ program must be followed, including the more extensive advance notice of landing. Only one IFQ advance landing notification covering both IFQ and non-IFQ Gulf reef fish species or Florida Keys/East Florida hogfish harvested in the Gulf would be required on such a trip.

Additional information about approved landing locations and submitting additional landing locations to NMFS for approval is described later in this proposed rule.

#### *Non-Activated IFQ Shareholder Accounts*

This proposed rule also addresses RS-IFQ and GT-IFQ shareholder accounts that received shares through the initial apportionment when each IFQ program began, but the accounts have never been accessed by the shareholder since January 1, 2010, the initiation of the current IFQ system. NMFS and the Council have attempted to notify account holders with these non-activated IFQ accounts through phone calls, certified letters, and discussion at public meetings. Although shares in the non-activated accounts represent a small fraction of the total shares, annual allocation assigned to these non-activated IFQ accounts is not landed, and therefore, may prevent achieving OY if not made available for use. The proposed rule would return the shares from non-activated RS-IFQ and GT-IFQ

accounts to NMFS for redistribution. The Council intends to redistribute these shares to IFQ program participants through a mechanism determined in Amendment 36B.

For more information on how to activate an existing non-activated IFQ account, persons may call the IFQ Customer Service line at 1-866-425-7627, and select option 2 during weekday business hours of 8 a.m. to 4:30 p.m., eastern time. NMFS will also attempt to notify holders of the non-activated IFQ accounts via certified mail to advise them of the potential action and provide an opportunity for those individuals to activate their accounts.

#### *Allocation*

Finally, this proposed rule addresses how to distribute allocation to IFQ shareholders in years in which there is an anticipated reduction of the commercial quota. Due to the time involved to develop documents, consider alternatives, and solicit public feedback, this situation would generally occur if the Council approved an action to reduce the commercial quota of any IFQ species or multi-species share category but NMFS could not complete the associated rulemaking before January 1, the start of the fishing year. Under the IFQ programs, annual allocation is distributed to IFQ shareholders on January 1, and most IFQ program participants begin to use or transfer their allocation early in each year. After shareholders begin transferring or landing allocation, NMFS is not able to retroactively withdraw allocation from shareholder accounts if a quota decrease became effective after the beginning of the fishing year. This proposed rule would allow NMFS to anticipate a decrease in the quota of any IFQ species or multi-species share categories after the start of a fishing year and withhold distribution of quota equal to the amount of the expected decrease in commercial quota. NMFS would distribute the remaining portion of the annual allocation to shareholders on January 1. If a final rule to implement the associated commercial quota reduction is not effective by June 1 in the same fishing year, then NMFS would distribute the withheld quota back to the current shareholders, as determined based on the date the withheld IFQ allocation was distributed.

#### *Approved Landing Locations*

As explained previously, this proposed rule would require vessel owners or operators on commercial trips who harvest non-IFQ Gulf reef fish species or Florida Keys/East Florida hogfish harvested in the Gulf to land at

an approved landing location. In anticipation of this potential requirement, NMFS is encouraging current and potential participants to submit additional landing locations to NMFS now for approval. Landing locations can be submitted by calling IFQ Customer Service at any time (see contact information above). A list of currently approved landing locations for the IFQ programs can be found at the IFQ website ([portal.southeast.fisheries.noaa.gov/cs/main.html](http://portal.southeast.fisheries.noaa.gov/cs/main.html)), under View Landing Locations. Any landing locations that have been approved for use in the IFQ programs would also be approved to land non-IFQ Gulf reef fish species or Florida Keys/East Florida hogfish harvested in the Gulf. Therefore, NMFS suggests persons check the list to determine if desired landing locations are currently in use prior to submitting a landing location for approval.

New landing locations are approved only at the end of each calendar-year quarter (end of March, June, September, and December). To have a landing location approved by the end of the quarter, it would have to be submitted at least 45 days before the quarter ends. Landing locations can be submitted at any time as described above.

Approved landing locations must be publicly and freely accessible by land and water, and must have a street address or, if a particular landing location has no street address on record, global positioning system (GPS) coordinates for an identifiable geographic location provided in degrees and decimal minutes. Other criteria used by NOAA's Office of Law Enforcement (OLE) when approving locations are listed at 50 CFR 622.21(b)(5)(v) and 622.22(b)(5)(v), and would be added by reference to new paragraph 622.26(a)(2)(v) through this proposed rule.

Once OLE approves new landing locations, updates to the landing notification screen on vessel monitoring system VMS units are constrained by programming requirements by the VMS vendors. Unless this changes, approved landing locations may not appear on the VMS screen immediately after approval.

#### **Classification**

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with Amendment 36A, the FMP, other provisions of the Magnuson-Stevens Act, and other applicable laws, subject to further consideration after public comment.

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

The Magnuson-Stevens Act provides the statutory basis for this proposed rule. No duplicative, overlapping, or conflicting Federal rules have been identified. A description of this proposed rule, why it is being considered, and the objectives of this proposed rule are contained in the preamble and in the **SUMMARY** section of the preamble.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) that this proposed rule, if implemented, would not have a significant economic impact on a substantial number of small entities. A description of the factual basis for this determination follows.

This proposed rule, if implemented, would expand the current requirement for vessels with a Federal commercial reef fish permit in the Gulf to notify NMFS in advance of landing reef fish species managed under an IFQ program. Commercial vessels landing Gulf reef fish not managed under an IFQ program or Florida Keys/East Florida hogfish harvested in the Gulf would also be required to notify NMFS prior to landing these species on each trip, although information reported (*i.e.*, date, time, approved location of landing, and vessel identification number) would be more limited than reports for IFQ species. This proposed rule would also return shares from non-activated IFQ accounts in the RS-IFQ and GT-IFQ programs to NMFS for future redistribution; and provide NMFS with the authority to withhold annual allocation of red snapper, or IFQ-managed groupers and tilefishes before distribution at the beginning of a fishing year (January 1) in which a commercial quota reduction is expected to be implemented in that same fishing year. The amount of IFQ allocation withheld from distribution would equal the amount of the expected commercial quota reduction. If a final rule to implement a commercial quota reduction is not effective by June 1 during a fishing year, NMFS would release the withheld allocation to shareholders. The purposes of this proposed rule are to increase management flexibility and improve compliance in the RS-IFQ and GT-IFQ programs, and increase the likelihood of achieving OY for reef fish stocks managed under these programs. The objectives of this proposed rule are to prevent overfishing; to achieve, on a continuing basis, the OY from federally managed reef fish stocks; and to rebuild

the red snapper stock that has been determined to be overfished.

This proposed rule is expected to directly regulate businesses that harvest non-IFQ Gulf reef fish species in the Gulf or Florida Keys/East Florida hogfish harvested in the Gulf, but do not harvest IFQ species on the same commercial fishing trips in the Gulf, and businesses that possess non-activated share accounts in the RS-IFQ and GT-IFQ programs. There were 731 vessels that landed at least 1 lb (0.5 kg) of species managed under the RS-IFQ or GT-IFQ program from 2011 through 2015. These vessels were already subject to existing advance notice of landing requirements on trips for which they landed IFQ species. There were 1,020 vessels that landed at least 1 lb (0.5 kg) of Gulf reef fish species (*i.e.*, IFQ and non-IFQ species) managed under the FMP. Thus, 289 vessels that land non-IFQ Gulf reef fish but do not land IFQ Gulf reef fish on commercial fishing trips would be directly regulated by the proposed expansion of the advance notice of landing requirements.

Although NMFS possesses complete ownership data regarding businesses and commercial vessels that land IFQ species, ownership data regarding businesses that possess Gulf reef fish permits but do not land IFQ species is incomplete. Therefore, it is not currently feasible to accurately determine affiliations between these particular businesses. While it will result in an overestimate of the actual number of businesses directly regulated by the extension of the advance notice requirement, for the purposes of this analysis, it is assumed that each vessel is independently owned by a single business. In addition, the 81 non-activated IFQ accounts with shares are held by 81 different businesses. Based on available data, these businesses are separate and distinct from the 289 businesses directly regulated by the expanded advance notice of landing requirement.

Thus, NMFS expects this proposed rule, if implemented, to directly regulate 289, or about 28 percent, of the 1,020 businesses that harvested Gulf reef fish species from 2011 through 2015 and 81 businesses that possessed shares in 81 non-activated IFQ accounts, or about 11 percent, of the 750 IFQ accounts that existed on December 14, 2016.

NMFS has established a small business size standard of \$11 million in annual gross receipts (revenue) for all businesses primarily engaged in the commercial fishing industry (NAICS code 11411) for RFA compliance purposes only (50 CFR 200.2). In addition to this gross revenue standard,

a business primarily involved in commercial fishing is classified as a small business if it is independently owned and operated, and is not dominant in its field of operations (including its affiliates).

Of the 1,020 vessels that harvested Gulf reef fish from 2011 through 2015, the maximum average annual gross revenue earned by a single vessel was approximately \$4.65 million, while the average annual gross revenue across all commercial Gulf reef fish vessels was \$130,574. Further, of the 81 businesses that possess shares in a non-activated IFQ account, only 1 of these businesses has been active in the commercial fishing industry during this time period. Because the other 80 businesses have not been active in the commercial fishing industry during this time, they have no known gross revenues. Although the one business that has been active owns six commercial fishing vessels, none of these vessels have been active in the industry since 2012. The average annual revenue for this business is confidential and therefore cannot be released, but it was significantly below the \$11 million threshold.

Based on the information above, all businesses directly regulated by this proposed rule are determined to be small businesses for the purpose of this analysis. Therefore, NMFS has determined that this proposed rule will affect a substantial number of small businesses.

This proposed rule would establish new reporting requirements for vessels that harvest reef fish species in the Gulf that are not managed under the RS-IFQ or GT-IFQ programs. Specifically, the expansion of the advance notice of landing requirement would require commercially permitted Gulf reef fish vessels to contact NMFS prior to landing if they are landing non-IFQ Gulf reef fish species or Florida Keys/East Florida hogfish harvested in the Gulf on a trip where no IFQ species are being landed. The expanded advance notification requirement would cause these vessels to incur some minor additional communication costs and an additional time burden associated with reporting the required information (*i.e.*, date, time, approved location of landing, and vessel identification number). The additional communication costs would not only vary by VMS vendor, but also by the communication plan chosen by each vessel owner. Under plans where the owner pays a fixed amount up to some specific level of data use, there would be no additional cost as a result of having to submit the required information. Conversely, the vessel owner would incur a cost if the owner

chose a plan where communication costs are directly based, and therefore vary, depending on the size and number of messages being transmitted. The expanded advance notice of landing requirement would apply to an additional 1,042 trips per year on average by 289 additional vessels, or approximately 3.6 trips per vessel per year. Based on available information regarding VMS vendors and communication plans, vessel owners are expected to incur additional communication costs of up to about \$0.33 per trip. For the 1,042 trips affected by the advance notice of landing requirement, additional communication costs across the fleet are expected to total \$343.86. Thus, the average annual communication costs for each of the 289 vessel owners affected by this requirement is expected to be about \$1.20, which is trivial relative to the average annual gross revenue for a commercial Gulf reef fish vessel.

In addition to the communication cost, there is an opportunity cost associated with any time burden created by additional reporting requirements. Typically, opportunity cost is approximated using the average wage or salary of those covered by the requirement. Vessel owners or operators would be responsible for submitting the advance notice of landing, and thus it is appropriate to use the average wage of first line supervisors and managers in the fishing, forestry, and farming industries. As of May 2016, which is the most currently available information, the Bureau of Labor Statistics reported that the mean wage of individuals in this occupation group was \$23.47. The expanded advance notice of landing requirement would apply to an additional 1,042 trips per year on average and the time burden associated with this requirement is 3 minutes per trip. Thus, the total additional time burden is approximately 52.1 hours per year. The expanded requirement would apply to an additional 289 vessels. Thus, the time burden per vessel would be approximately 0.18 hours per year per vessel. This results in an opportunity cost of approximately \$4.23 per business per year, which is trivial relative to the average annual gross revenue for a commercial Gulf reef fish vessel.

Based on the analysis above, the additional costs per business resulting from the expanded advance notice of landing requirement are expected to be minimal. In addition, the advance notice of landing would be submitted through the vessel's VMS. All Gulf reef fish vessels are required to use VMS, and VMS has been required on these

vessels since 2006. Thus, special professional skills are not necessary to comply with this requirement.

With respect to NMFS taking back shares from the 81 businesses that currently possess non-activated IFQ accounts, the market price of annual allocation should approximate the expected annual profit from using the annual allocation for harvesting purposes (*i.e.*, to land fish). Based on the current market prices for annual allocation of red snapper and IFQ-managed groupers and tilefishes, these shares would be expected to result in profits of approximately \$64,255 if the businesses chose to sell the annual allocation associated with these shares or use the annual allocation to harvest fish; more specifically, profits would be \$45,988 from selling or using red snapper annual allocation and \$18,267 from selling or using annual allocation for IFQ-managed grouper and tilefish species. Thus, the expected annual profit from selling the annual allocation associated with these shares, or using the allocation for harvesting purposes, is approximately \$793 per business. Based on the current market prices of shares in the RS-IFQ and GT-IFQ programs, the market value of these shares is \$716,525 in total, or \$8,846 per business, with shares of red snapper valued at \$500,366 and shares of IFQ-managed groupers and tilefishes valued at \$216,159.

However, as previously discussed, only 1 of these 81 businesses is still active in the commercial fishing industry with respect to harvesting activities, and that single business has not been active since 2012. These 81 businesses are not currently generating any gross revenues or profits, and NMFS assumes they have been out of business for several years. Further, these businesses have held these shares and had access to the associated annual allocation for several years, but have chosen not to sell their shares or annual allocation or use their annual allocation for harvesting purposes. Thus, although these shares and annual allocations have value to other businesses in the IFQ programs based on their respective market prices, the behavior of these 81 businesses suggests they do not place any value on these shares and annual allocations. Because these businesses are not earning any revenues or profits at present and have never used these shares to earn revenues or profits, nor are they expected to, taking these shares away from them would not be expected to reduce their revenues or profits below their current or expected levels in the future. Further, if NMFS were to allow these businesses to retain these shares

in non-activated IFQ accounts, these shares could not be used by other businesses still active in the IFQ programs to generate revenues and profits. Taking these shares back so they can be redistributed would allow the active businesses' revenues and profits to increase in the future.

Finally, the action that provides NMFS with the authority to withhold annual allocation of red snapper, or IFQ-managed groupers and tilefishes before distribution at the beginning of a fishing year as described previously is administrative in nature, because it does not directly regulate any entities and thus would not be expected to alter their behavior. Therefore, NMFS does not expect this action to directly regulate or affect any small entities.

Based on the information above, NMFS does not expect a reduction in profits for a substantial number of small entities as a result of this proposed rule. Thus, this proposed rule would not have a significant economic impact on a substantial number of small entities and an initial regulatory flexibility analysis is not required and none has been prepared.

This proposed rule contains a collection-of-information requirement subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). This requirement has been submitted to OMB for approval. NMFS is proposing to revise the collection-of-information requirement under OMB Control Number 0648-0551, Southeast Region IFQ Programs. The proposed rule would require owners or operators of vessels with commercial Gulf reef fish permits to submit a notification to NMFS on each trip prior to landing exclusively non-IFQ Gulf reef fish species or Florida Keys/East Florida hogfish harvested in the Gulf. Public reporting burden for the proposed requirement is estimated to average 3 minutes per applicable trip, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection information.

*Public comment is sought regarding:* Whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of

information technology. Send comments on these or any other aspects of the collection of information to the Southeast Regional Office at the ADDRESSES above, and by email to [OIRA\\_Submission@omb.eop.gov](mailto:OIRA_Submission@omb.eop.gov) or fax to 202–395–5806.

Notwithstanding any other provision of the law, no person is required to respond to, and no person will be subject to penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number. All currently approved collections of information may be viewed at [http://www.cio.noaa.gov/services\\_programs/prasubs.html](http://www.cio.noaa.gov/services_programs/prasubs.html).

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

Commercial, Fisheries, Fishing, Grouper, Gulf of Mexico, Individual fishing quota, Red snapper, Tilefish.

Dated: March 15, 2018.

**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 OF MEXICO, 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 § 622.21, revise paragraph (a)(4) and add paragraph (a)(6) to read as follows:

#### § 622.21 Individual fishing quota (IFQ) program for Gulf red snapper.

(a) \* \* \*

(4) *IFQ allocation.* IFQ allocation is the amount of Gulf red snapper, in pounds gutted weight, an IFQ shareholder or allocation holder is authorized to possess, land, or sell during a given fishing year. IFQ allocation is derived at the beginning of each year by multiplying a shareholder's IFQ share times the annual commercial quota for Gulf red snapper. If the quota is increased after the beginning of the fishing year, then IFQ allocation is derived by multiplying a shareholder's IFQ share at the time of the quota increase by the amount the annual commercial quota for red snapper is increased. If a reduction in the commercial quota specified in § 622.39(a)(1)(i) is expected to occur after January 1, the beginning of the fishing year, but before June 1 in that same fishing year, NMFS will withhold

distribution of IFQ allocation on January 1. The amount of IFQ allocation withheld from distribution will equal the amount of the expected commercial quota reduction. If a final rule to implement the commercial quota reduction is not published in the **Federal Register** and effective by June 1, NMFS will distribute withheld IFQ allocation of red snapper commercial quota to current shareholders based on shareholdings on the date the withheld IFQ allocation is distributed.

\* \* \* \* \*

(6) *Returning IFQ shares.* Any shares contained in IFQ accounts that have never been activated since January 1, 2010, in the IFQ program are returned permanently to NMFS on [the effective date of a final rule implementing Amendment 36A].

\* \* \* \* \*

■ 3. In § 622.22, revise paragraph (a)(4) and add paragraph (a)(9) to read as follows:

#### § 622.22 Individual fishing quota (IFQ) program for Gulf groupers and tilefishes.

(a) \* \* \*

(4) *IFQ allocation.* IFQ allocation is the amount of Gulf groupers and tilefishes, in pounds gutted weight, an IFQ shareholder or allocation holder is authorized to possess, land, or sell during a given fishing year. IFQ allocation is derived at the beginning of each year by multiplying a shareholder's IFQ share times the annual commercial quota for Gulf groupers and tilefishes. If the quota is increased after the beginning of the fishing year, then IFQ allocation is derived by multiplying a shareholder's IFQ share at the time of the quota increase by the amount the annual commercial quota for groupers and tilefishes is increased. If a reduction in the applicable commercial quota specified in § 622.39(a)(1) is expected to occur after January 1, the beginning of the fishing year, but before June 1 in that same fishing year, NMFS will withhold distribution of IFQ allocation of the applicable groupers and tilefishes commercial quota on January 1. The amount of IFQ allocation withheld from distribution will equal the amount of the expected commercial quota reduction. If a final rule to implement the commercial quota reduction is not published in the **Federal Register** and effective by June 1, NMFS will distribute withheld IFQ allocation of the applicable groupers and tilefishes commercial quota to current shareholders based on the date the withheld IFQ allocation is distributed.

\* \* \* \* \*

(9) *Returning IFQ shares.* Any shares contained in IFQ accounts that have never been activated since January 1, 2010, in the IFQ program are returned permanently to NMFS on [the effective date of a final rule implementing Amendment 36A].

\* \* \* \* \*

■ 4. In § 622.26, revise paragraph (a) to read as follows:

#### § 622.26 Recordkeeping and reporting.

(a) *Commercial vessel owners and operators.* (1) The owner or operator of a vessel for which a commercial permit for Gulf reef fish has been issued, as required under § 622.20(a)(1), or whose vessel fishes for or lands reef fish in or from state waters adjoining the Gulf EEZ, who is selected to report by the SRD must maintain a fishing record on a form available from the SRD. These completed fishing records must be submitted to the SRD postmarked no later than 7 days after the end of each fishing trip. If no fishing occurred during a calendar month, a report so stating must be submitted on one of the forms postmarked no later than 7 days after the end of that month. Information to be reported is indicated on the form and its accompanying instructions.

(2) *Advance notice of landing—(i) General requirement.* For the purpose of this paragraph, landing means to arrive at a dock, berth, beach, seawall, or ramp. The owner or operator of a vessel landing Gulf reef fish not managed under an IFQ program or Florida Keys/East Florida hogfish harvested in the Gulf is responsible for ensuring that NMFS is contacted at least 3 hours, but no more than 24 hours, in advance of landing to report the time, date, and location of landing, and the vessel identification number (*e.g.*, Coast Guard registration number or state registration number). The vessel must land at an approved landing location and within 1 hour after the time given in the landing notification, except as provided in paragraph (a)(2)(iii) of this section. A vessel landing Gulf reef fish managed under an IFQ program must also comply with the requirements in §§ 622.21 and 622.22, as applicable.

(ii) *Submitting an advance landing notification.* Authorized methods for contacting NMFS and submitting a completed landing notification include the VMS unit, or another contact method approved by NMFS.

(iii) *Landing prior to the notification time.* The owner or operator of a vessel that has completed a landing notification and submitted it to NMFS may land prior to the notification time, only if an authorized officer is present at the landing site, is available to meet

the vessel, and has authorized the owner or operator of the vessel to land prior to the notification time.

(iv) *Changes to a landing notification.* The owner or operator of a vessel who has submitted a landing notification to NMFS may make changes to the notification by submitting a superseding notification. If the initial superseding notification makes changes to the time of landing that is later than the original time in the notification, the vessel does not need to wait an additional 3 hours to land. If the initial superseding notification makes changes to the landing location, the time of landing is earlier than previously specified, or more than one superseding notification is submitted on a trip, the vessel must wait an additional 3 hours to land, except as provided in paragraph (a)(2)(iii) of this section.

(v) *Approved landing locations.* Gulf reef fish not managed under an IFQ program, and Florida Keys/East Florida hogfish harvested in the Gulf, must be landed at an approved landing location. Landing locations must be approved by the NOAA Office of Law Enforcement prior to a vessel landing these species at these sites. Proposed landing locations may be submitted to NMFS; however, new landing locations will be approved only at the end of each calendar-year quarter. To have a landing location approved by the end of the calendar-year quarter, it must be submitted at least 45 days before the end of the calendar-year quarter. NMFS will evaluate the proposed sites based on, but not limited to, the criteria at 50 CFR 622.21(b)(5)(v) and 622.22(b)(5)(v).

\* \* \* \* \*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 635

RINs 0648-XG007, 0648-XF947

#### Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Fisheries; Pelagic Longline Fishery Management and Shortfin Mako Shark Management Measures

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

**ACTION:** Notice of rescheduled scoping meeting.

**SUMMARY:** On March 2, 2018, NMFS published a Notice of Intent with scoping meeting dates for upcoming rulemaking for pelagic longline bluefin tuna area-based and weak hook management. On March 5, 2018, NMFS published a Notice of Intent with scoping meeting dates for Amendment 11 to the 2006 Consolidated HMS FMP. In this notice, per a request from constituents in that area, NMFS reschedules the New Jersey meeting date and provides a new meeting location.

**DATES:** The scoping meeting will now be held on April 11, 2018, from 4 p.m. to 8 p.m..

**ADDRESSES:** The scoping meeting will now be held in Little Egg Harbor, NJ, at the Little Egg Harbor Branch Library, 290 Mathistown Road, Little Egg Harbor, NJ 08087.

**FOR FURTHER INFORMATION CONTACT:** Guý DuBeck or Craig Cockrell by phone: 301-427-8503, or Jennifer Cudney by phone: 727-824-5399.

**SUPPLEMENTARY INFORMATION:** Regulations implemented under the authority of the Atlantic Tunas Convention Act (ATCA; 16 U.S.C. 971 *et seq.*) and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. 1801 *et seq.*) governing the harvest of HMS, including bluefin tuna and sharks, by persons and vessels subject to U.S. jurisdiction are found at 50 CFR 635.

On March 2, 2018, NMFS published a Notice of Intent (83 FR 8969) with scoping meeting dates for pelagic longline bluefin tuna area-based and weak hook management. The notice announced a public process for determining the scope of issues to be addressed and for identifying the significant issues relating to the management of Atlantic HMS, with a focus on area-based management measures and weak hook management measures that were implemented to reduce dead discards of bluefin tuna in the pelagic longline fishery. On March 5, 2018, NMFS published a Notice of Intent (83 FR 9255) with scoping meeting dates for Amendment 11 to the 2006 Consolidated HMS FMP. This notice announced consideration of potential new management measures for shortfin mako sharks that could be implemented through rulemaking to address overfishing and to implement, as necessary and appropriate, measures adopted by the International Commission for the Conservation of Atlantic Tunas (ICCAT) (ICCAT Recommendation 17-08) in response to

the 2017 shortfin mako shark stock assessment.

Due to a request to reschedule the meeting due to a conflict with another meeting for local constituents, NMFS is canceling the original scoping meeting that had been scheduled for April 12, 2018 in Manahawkin, NJ and changing it to another date and location. The scoping meeting in New Jersey is now scheduled for April 11, 2018, in Little Egg Harbor, NJ (see **ADDRESSES** and **DATES**).

Because the rulemakings overlap for some gear types, the public scoping meeting being held in Little Egg Harbor, NJ will address the issues from the scoping documents for both the pelagic longline bluefin tuna area-based and weak hook management and Amendment 11 to the 2006 Consolidated HMS FMP. The shortfin mako shark management measure presentation will likely be given first unless polling of the audience indicates another approach is appropriate. After each presentation, public comment for that issue will be received. Meeting attendees interested in this issue are encouraged to show up at the beginning of the meeting to help determine the order of the presentations. The second presentation will not start any later than 6 p.m.

The public is reminded that NMFS expects participants at the public hearings to conduct themselves appropriately. At the beginning of each public hearing, a representative of NMFS will explain the ground rules (*e.g.*, alcohol is prohibited from the hearing room; attendees will be called to give their comments in the order in which they registered to speak; each attendee will have an equal amount of time to speak; and attendees should not interrupt one another). The NMFS representative will attempt to structure the meeting so that all attending members of the public will be able to comment, if they so choose, regardless of the controversial nature of the subject(s). Attendees are expected to respect the ground rules, and, if they do not, they may be asked to leave the hearing.

**Authority:** 16 U.S.C. 971 *et seq.*; 16 U.S.C. 1801 *et seq.*

Dated: March 16, 2018.

**Emily H. Menashes,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

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