

requirements; a requirement for Councils to have procedures for proposed regulations; designation of an alternate for the Indian tribal representative of the Pacific Fishery Management Council; requirements for nominating individuals to the Gulf of Mexico Fishery Management Council; revisions to the process and deadline for governors to submit Council member nominations to the Secretary; restrictions on direct or indirect lobbying by Council members, Council staff, and contractors; addition of lobbying and advocacy as types of financial interest activities that must be reported by affected individuals; and the requirement for new Council members to attend a training course. Additionally, this proposed rule would implement several minor changes in Magnuson-Stevens Act section 302, as well as a number of technical changes and minor corrections, unrelated to the reauthorization of the Act. Many of the key aspects of this proposed rule reiterate statutory requirements of the Magnuson-Stevens Act. NMFS is including this statutory text in regulations so that relevant Council process provisions both statutory and regulatory are presented together for ease of reference.

On March 27, 2009 (74 FR 13386), NMFS published this proposed rule with a comment period ending July 6, 2009. Because this proposed rule primarily affects the Councils, their input is critical in ensuring that questions regarding the requirements of this proposed rule are raised and responded to prior to a final rule being published. The original comment period allowed enough time for almost all Councils to have a meeting and discuss this proposed rule during the comment period. The Councils have now requested that the comment period be extended to allow all Councils to have two meetings during the comment period. NMFS agrees with this request and extends the comment period until November 2, 2009 to allow the Councils and the public adequate time to understand this proposed rule, discuss its effects on their circumstances, and provide their comments.

Dated: June 24, 2009.

**John Oliver,**

*Deputy Assistant Administrator for Operations, National Marine Fisheries Service.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 622

[Docket No. 080226312-9085-01]

RIN 0648-AW12

#### Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery off the Southern Atlantic States; Amendment 15B; Reef Fish Fishery of the Gulf of Mexico

**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 15B 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, require a private recreational vessel that fishes in the exclusive economic zone (EEZ), if selected by NMFS, to maintain and submit fishing records; require a vessel that fishes in the EEZ, if selected by NMFS, to carry an observer and install an electronic logbook (ELB) and/or video monitor provided by NMFS; prohibit the sale of snapper-grouper harvested or possessed in the EEZ under the bag limits and prohibit the sale of snapper-grouper harvested or possessed under the bag limits by vessels with a Federal charter vessel/headboat permit for South Atlantic snapper-grouper regardless of where the snapper-grouper were harvested; require an owner and operator of a vessel for which a commercial or charter vessel/headboat permit has been issued and that has on board any hook-and-line gear to comply with sea turtle and smalltooth sawfish release protocols, possess on board specific gear to ensure proper release of such species, and comply with guidelines for proper care and release of such species that are incidentally caught; and expand the allowable transfer of a commercial vessel permit under the limited access program and extend the allowable period for renewal of such a permit. Amendment 15B also proposes to revise the stock status determination criteria for golden tilefish and specify commercial/recreational allocations for snowy grouper and red porgy. In addition, NMFS proposes to

remove language specifying commercial quotas for snowy grouper that are no longer in effect and proposes to revise sea turtle bycatch mitigation requirements applicable to the Gulf reef fish fishery to add two devices that were inadvertently omitted from a prior rule. The intended effects of this rule are to provide additional information for, and otherwise improve the effective management of, the South Atlantic snapper-grouper fishery; minimize the impacts on incidentally caught threatened and endangered sea turtles and smalltooth sawfish; and remove outdated language.

**DATES:** Written comments on this proposed rule must be received no later than 5:00 p.m., eastern time, on August 4, 2009.

**ADDRESSES:** You may submit comments, identified by RIN 0648-AW12, by any one of the following methods:

- **Electronic Submissions:** Submit all electronic public comments via the Federal eRulemaking Portal <http://www.regulations.gov>
- **Fax:** 727-824-5308, Attn: Kate Michie
- **Mail:** Kate Michie, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701

Instructions: 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.

NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

Copies of Amendment 15B 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 15B includes a Final Environmental Impact Statement (FEIS), an Initial Regulatory Flexibility Analysis (IRFA), a Regulatory Impact Review, and a Social Impact Assessment/Fishery Impact Statement.

Comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule may be submitted in writing to Jason Rueter,

Southeast Regional Office, NMFS, and to David Rostker, OMB, by e-mail at [David\\_Rostker@omb.eop.gov](mailto:David_Rostker@omb.eop.gov), or by fax to 202-395-7285.

**FOR FURTHER INFORMATION CONTACT:** Kate Michie, telephone: 727-824-5305, fax: 727-824-5308, e-mail: [Kate.Michie@noaa.gov](mailto:Kate.Michie@noaa.gov)

**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.

#### **Amendment 15B**

##### *Monitor and Assess Bycatch*

Current data collection methods do not adequately capture the true magnitude of bycatch in the fishery for South Atlantic snapper-grouper. An improved ability to monitor and assess bycatch in the fishery would provide better estimates of interactions with protected species and improve the quality of stock assessments so that management measures may be implemented in a timely manner to prevent stock collapse and/or speed recovery of overfished stocks.

Accordingly, this proposed rule would expand the existing requirement for fishing reports to include such private recreational vessels as are selected by the Science and Research Director, Southeast Fisheries Science Center, NMFS (SRD).

Similarly, this proposed rule would require an owner and operator of a vessel with a commercial vessel or charter vessel/headboat permit for South Atlantic snapper-grouper and an owner and operator of a private recreational vessel in that fishery, if selected by the SRD, to carry a NMFS-approved observer on trips selected by the SRD and/or participate in a NMFS-sponsored ELB or video monitoring reporting program as directed by the SRD.

To initiate an ELB or video monitoring program, NMFS would send a letter to an owner or operator of a selected vessel advising of his or her obligation to participate in the program. In cooperation with the owner or operator, NMFS staff or an authorized representative would meet at the selected vessel to install the NMFS-furnished ELB and/or video monitor on the vessel and to collect basic vessel and gear information that would later be correlated with the ELB or video monitoring information. Using the Global Positioning System, an ELB

would automatically record vessel position information over time from which conclusions could be drawn regarding vessel activity, e.g., the vessel is fishing or transiting. At intervals determined by NMFS, the ELB memory unit or video monitor tape would be removed and provided to the SRD. The owner or operator could either mail the memory unit or tape to the SRD or arrange for a NMFS or state port agent to collect the unit or tape. The ELB program would supplement existing post-trip interview data and is intended to provide better estimates of the amount and location of effort occurring during a trip.

With an ELB, bycatch in the fishery would be estimated from a second sampling program based on observer data. NMFS would use total effort estimates based on best available scientific information to extrapolate observer-collected data into overall estimates of total finfish and invertebrate bycatch. A pilot program using ELBs started in 1999, with increasing coverage each year. The units have proved to be reliable and the data retrieved have provided substantial new information regarding the effort of the fishery in which it was used.

Video monitoring hardware and software could provide a cost-effective and reliable system of monitoring bycatch, release mortality, handling of fishes, and other shipboard practices. These systems have been shown to be useful in monitoring bycatch in other parts of the country. Pertinent data collected by a video electronic monitoring system would include species caught, number of hooks, location, depth, date, time, and disposition of released organisms. These data would provide information needed to help rebuild and maintain sustainable fisheries and determine what impact the fishery has on the survival of species. Data collected could be used to assess the fish species composition associated with the habitat affected by fishing gear, allowing for a better understanding of the ecosystem. Information would also be collected on protected resources encountered by fishing gear. The use of technology to record species, capture position, and disposition of released fishes has the potential to augment the collection of bycatch information and lessen the need for observers. Video technology could be used on vessels that cannot take a human observer for safety reasons or vessel limitations or other reasons. Previous experience indicates video monitoring is very effective for monitoring catches from longline gear due to the size and types of species collected. It is also

substantially less expensive than observer coverage for comparable data collection.

These additional information sources combined with existing requirements would comprise part of the program to monitor and assess bycatch in the South Atlantic snapper-grouper fishery. NMFS would also rely on state cooperation, specifically funded projects, and the Atlantic Coastal Cooperative Statistics Program's Release, Discard and Protected Species Module, as that module is implemented.

#### **Modification of the Sales Provisions**

Current regulations allow the sale of snapper-grouper taken from the South Atlantic EEZ, up to the allowed bag limit, to be sold to a licensed dealer if the seller possesses a state-issued license to sell fish, whether or not the seller has a commercial vessel permit. Fish harvested and marketed in this manner, whether harvested by for-hire vessels or private anglers, are counted against the commercial quotas, resulting in accelerated quota closures and reducing the amount and value of harvests allocated to the commercial sector. Accelerated closures impose additional economic losses through market disruption and forced alteration of fishing practices, including transference of effort to other resources that may be less valuable and/or more expensive to catch. The effects of this situation are exacerbated by the current reduced commercial quotas. In addition, such fish are also counted against the recreational allocations, thus complicating fishery assessments. Accordingly, this rule would prohibit the sale of South Atlantic snapper-grouper harvested or possessed in the EEZ and possessed under the bag limits. This prohibition would apply not only to a person fishing from a private recreational vessel but also to a person fishing from a vessel operating as a charter vessel or headboat even if such charter vessel/headboat has a commercial vessel permit. In addition, this rule would prohibit the sale of snapper-grouper harvested or possessed under the bag limits by a vessel for which a Federal charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, regardless of where the snapper-grouper were harvested, i.e., in state or Federal waters.

#### **Sea Turtle and Smalltooth Sawfish Bycatch**

NMFS concluded in a biological opinion that reasonable and prudent measures are necessary and appropriate to minimize the impacts on incidentally

caught threatened and endangered sea turtles and smalltooth sawfish taken in the South Atlantic snapper-grouper fishery. Therefore, measures are needed to comply with the biological opinion and to enhance the protection of threatened and endangered sea turtles and smalltooth sawfish.

This proposed rule would require a vessel for which a commercial or charter vessel/headboat permit has been issued for South Atlantic snapper-grouper and has any hook-and-line gear on board to possess a document provided by NMFS titled, "Careful Release Protocols for Sea Turtle Release With Minimal Injury;" post the sea turtle handling and release guidelines provided by NMFS on the vessel; and, as specified in § 622.10(c) of this rule, have 12 types of sea turtle bycatch mitigation gear on board and follow specified release handling measures for a sea turtle or smalltooth sawfish that is caught incidentally.

#### Limited Access Permits for South Atlantic Snapper-Grouper

Currently, a transferable commercial vessel permit issued under the limited access program may be transferred only to an immediate family member of the holder. An "immediate family member" is specified as a husband, wife, son, daughter, brother, sister, mother, or father. This restriction has made it difficult for owners of individually owned vessels to change to corporate ownership and realize the associated benefits. Accordingly, the Council proposes and this rule would allow transfer to a corporation, provided the shareholders of the corporation are limited to the original permit holder at the time of the transfer and his or her immediate family members. Subsequent additional shareholders would be limited to immediate family members. These requirements would also apply to renewal of permits.

Currently, a limited access permit must be renewed not later than 60 days after its expiration. The Council finds that this limitation is overly burdensome and has limited management benefits. Accordingly this rule would extend the permit renewal period to one year.

#### Commercial/Recreational Allocations for Snowy Grouper and Red Porgy

The FMP currently does not specify commercial and recreational allocations for snowy grouper or red porgy. While commercial quotas are established for these species, lack of recreational allocations precludes specifications of allowable recreational catch and appropriate measures to prevent overfishing by that sector. Accordingly,

the Council proposes to establish such commercial and recreational allocations.

For snowy grouper, the Council proposes allocations of 95 percent for commercial catch and 5 percent for recreational catch, which are based on the percentage of commercial and recreational landings during 1986–2005. Beginning in 2009, the commercial quota would be 82,900 lb (37,603 kg), gutted weight, and the recreational allocation would be 523 fish, which is the equivalent of 4,400 lb (1,996 kg), gutted weight.

For red porgy, the Council proposes allocations of 50 percent for commercial catch and 50 percent for recreational catch based on the percentage of commercial and recreational landings during 2001–2005. Beginning in 2009, the commercial quota would be 190,050 lb (86,205 kg), gutted weight, and the recreational allocation would be 190,050 lb (86,205 kg), gutted weight.

Accordingly, this rule would establish the commercial quotas indicated above. Approved recreational and commercial allocations would be considered legitimate measures of the FMP, but would not appear in codified text.

#### Stock Status Determination Criteria for Golden Tilefish

Section 303 of the Magnuson-Stevens Act requires that the regional fishery management councils: (1) assess the condition of managed stocks, (2) specify within their fishery management plans objective and measurable criteria for identifying when the stocks are overfished and when overfishing is occurring (referred to by NMFS as stock status determination criteria), and (3) amend their fishery management plans to include measures to rebuild overfished stocks and maintain them at healthy levels capable of producing maximum sustainable yield (MSY). NMFS' national standard guidelines direct the councils to meet these statutory requirements by incorporating into each FMP estimates of certain biomass-based stock status determination criteria for each stock, including a designation of the stock biomass that will produce MSY. By evaluating the current stock biomass and fishing mortality rate in relation to these criteria, fishery managers can determine whether a fishery is overfished or undergoing overfishing, and whether current management measures are sufficient to prevent overfishing and achieve the optimum yield (OY).

The required criteria include MSY, OY, minimum stock size threshold (MSST), and maximum fishing mortality threshold (MFMT). MSST is the biomass

level below which a stock is considered overfished. MFMT is the maximum level of fishing mortality that a stock can withstand while still producing MSY on a continuing basis and above which overfishing is considered to be occurring.

In the past for snapper-grouper species, the Council has specified either numeric values, proxies, or nothing at all for the criteria described above. A recent stock assessment of golden tilefish has provided numerical values for MSY, OY, and MSST for that species. (Currently, MFMT is defined as the level of fishing mortality that will produce MSY and would remain unchanged.) The Council proposes the following changes based on the golden tilefish assessment:

	Current Value	Proposed Value
MSY	Not specified	336,425 lb (152.60 mt), whole weight
OY	Not specified	326,554 lb (148.12 mt), whole weight
MSST	1,783,650 lb (809.05 mt), whole weight	1,454,063 lb (659.55 mt), whole weight

Approved stock status criteria, as with the proposed recreational allocations for snowy grouper and red porgy, would be considered legitimate measures of the FMP, but would not appear in codified text.

#### Availability of Amendment 15B

Additional background and rationale for the measures discussed above are contained in Amendment 15B. The availability of Amendment 15B was announced in the **Federal Register** on June 4, 2009, (74 FR 26827). Written comments on Amendment 15B must be received by August 3, 2009. All comments received on Amendment 15B or on this proposed rule during their respective comment periods will be addressed in the preamble to the final rule.

#### Additional Measures Proposed by NMFS

As general housekeeping changes, NMFS proposes to--(1) remove the outdated 2006 and 2007 commercial quotas and commercial trip limits for snowy grouper at § 622.42(e)(1) and § 622.44(c)(3), respectively; and (2) rearrange and consolidate the

restrictions on sale/purchase of South Atlantic snapper-grouper at § 622.45(d).

In addition, NMFS proposes to revise § 622.10(b)(1) to add two devices to the list of required sea turtle bycatch mitigation gear for commercial and charter vessel/headboats in the Gulf reef fish fishery that were inadvertently omitted in the final rule published August 9, 2006 (71 FR 45428). For vessels with a freeboard height of 4 ft (1.2 m) or less, a tire is added to the list. For vessels with a freeboard height of greater than 4 ft (1.2 m), a tire and a long-handled device to pull an "inverted V" in the fishing line are added to the list.

### 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 15B, 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.

The Council prepared an FEIS for Amendment 15B; a notice of availability was published on June 4, 2009, (74 FR 26827).

An IRFA was prepared, as required by section 603 of the RFA (RFA). 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 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 summary of the analysis follows. A copy of this analysis is available from the Council (see **ADDRESSES**).

The purpose of this rule is to specify quotas for snowy grouper and red porgy; modify the sales provisions of snapper-grouper caught or possessed under the bag limit; implement a plan to monitor and assess bycatch; implement measures to minimize the impacts of incidental sea turtle and smalltooth sawfish take; and ease the requirements of snapper-grouper permit renewal and transfer. These measures are expected to provide additional information for, and otherwise improve the effective management of, the South Atlantic snapper-grouper fishery, and minimize the impacts on incidentally caught threatened and endangered sea turtles and smalltooth sawfish. The Magnuson-Stevens Act provides the statutory basis for the proposed rule. In addition to these actions, Amendment 15B established allocation ratios for snowy

grouper and red porgy, and management reference points and stock status criteria for golden tilefish.

No duplicative, overlapping, or conflicting Federal rules have been identified.

This proposed action is expected to directly impact commercial fishers and for-hire operators. The SBA has established size criteria for all major industry sectors in the U.S. including 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 \$6.5 million (NAICS code 713990, recreational industries).

From 2001–2005, an average of 1,127 vessels per year were permitted to operate in the commercial snapper-grouper fishery. However, over the 2004–2006 fishing years, an average of 717 vessels per year that were permitted to operate in the commercial snapper-grouper fishery recorded snapper-grouper sales. The average annual dockside value of snapper-grouper sold by these vessels was approximately \$12.96 million (nominal dollars), while the value of all other species sold by these vessels was approximately \$14.33 million (nominal dollars), or total average annual revenues of approximately \$27.29 million. The average annual dockside revenue per vessel from sales of all marine species for this period was approximately \$38,000.

In 2005, 1,328 vessels were permitted to operate in the Federal snapper-grouper for-hire fishery, of which 82 are estimated to have operated as headboats, and 1246 are charter vessels. Within these 1,328 vessels, 201 vessels also possessed a commercial snapper-grouper permit and would be included in the summary information provided on the commercial sector. The charter vessels charge a fee on a vessel basis, and headboats charge a fee on an individual angler (head) basis. The charter vessel annual average gross revenue is estimated to range from approximately \$62,000–\$84,000 (2005 dollars) 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. From 2004–2006, an average of 159 vessels per year with the for-hire snapper-grouper permit had recorded sales of snapper-grouper species. The total average annual revenues from snapper-grouper species were approximately \$316,000 (nominal dollars), while average annual revenues for all other species was approximately \$1.52 million (nominal dollars), for total average annual revenues from fish sales of approximately \$1.84 million. The average annual revenue per for-hire vessel from fish sales of all marine species for this period was approximately \$11,600. It should be noted that these revenues are not included in the average gross for-hire revenues listed above, which only reflect revenues from charter fees.

The proposed prohibition of bag-limit sales would affect vessels that have historically sold snapper-grouper but do not possess or fish under a Federal commercial snapper-grouper permit. From 2004–2006, an average of 1,439 fishing vessels per year that could not be associated with either a Federal commercial or Federal for-hire snapper-grouper permit had recorded snapper-grouper sales. Total average annual revenues from snapper-grouper species for these vessels were approximately \$2.09 million (nominal dollars), while average revenues from all other species were approximately \$28.59 million (nominal dollars), for total average annual revenues of approximately \$30.67 million. The average annual revenue per vessel from sales of all marine species for this period was approximately \$21,000.

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. Based on the average revenue figures described above, it is determined, for the purpose of this assessment, that all fishing operations that would be affected by this action are small entities.

This action does not explicitly impose any new reporting, record-keeping or other compliance requirements because the action simply specifies the types of requirements that could be imposed to improve bycatch monitoring and assessment and any individual vessel would only be subject to any new requirements if selected. However, the proposed bycatch and monitoring assessment action could result in a requirement for the use of paper logbooks, electronic logbooks, or video cameras, or the carrying of observers to aid in the monitoring of bycatch. All commercial snapper-grouper trips are

currently required to complete logbook records, with each report estimated to take 10 minutes to complete. Over the years 2001–2005, commercial vessels operating in the snapper-grouper fishery took almost 16,000 trips, or approximately 14 trips per vessel. Assuming modification to the current logbook to include bycatch increased the time required to complete the form by 25 percent, then the additional annual time burden to complete the form fishery-wide would be approximately 667 hours or 0.6 hours per vessel.

The headboat sector is also currently required to complete logbook reports for all trips, estimated to take 18 minutes per report. Assuming an average of 322 trips per vessel (note that many vessels take multiple trips per day, so the average number of trips does not equal days fished), 82 headboats, and a 25-percent increase in the amount of time required to complete the form to account for bycatch, the resultant increased annual time burden to the industry would be approximately 1,980 hours, or 24 hours per vessel.

Although charter vessels currently are required to complete logbooks if selected, no vessels in the charter-vessel sector are currently selected and required to submit logbooks. Assuming it took a charter vessel the same amount of time required for a commercial vessel to complete a bycatch-augmented logbook, 12.5 minutes, 1,246 charter vessels and 146 trips per charter vessels per year, if all vessels were required to complete logbooks, the total annual time burden to the industry would be approximately 37,900 hours or 30.4 hours per vessel.

There would be no anticipated costs of logbook reporting beyond the opportunity cost of completing the logbook forms. Current logbook programs provide fishermen with addressed, pre-paid envelopes for returning completed forms. Completing the logbooks would not be expected to require special skills.

Similar burden estimates are not available for the use of electronic logbooks. Electronic logbooks would be expected to take less time to complete because certain response variables could be preprogrammed and transmission would be simplified. Logbooks are estimated to cost \$500 per unit, but responsibility for this expense is undetermined at this time. Considering the widespread familiarity with and usage of computers throughout today's society, special skills to use an electronic logbook would not be expected, though some initial training

or demonstration and a short learning curve would be logical.

The use of video cameras to monitor and record bycatch is likely a method that would, if used, be imposed on only a small portion of participants in the snapper-grouper fishery due to its cost and complexity. Purchase, installation, and maintenance costs of video systems would likely be borne by the government, though some cost-sharing with fishermen may occur. Additional details are unavailable at this time, so concrete determinations on fishermen burden or skill requirements cannot be made.

The proposed rule would be expected to directly affect all vessels that operate in the commercial snapper-grouper fishery, all vessels that have a Federal snapper-grouper for-hire permit, and all vessels that harvest snapper-grouper from the EEZ and sell their catch to federally permitted dealers. All affected entities have been determined, for the purpose of this analysis, to be small entities. Therefore, it is determined that the proposed action would affect a substantial number of small entities. Since all entities that would be expected to be affected by the proposed rule are considered small entities, no disproportionate effects on small entities relative to large entities would be expected.

Only four of the proposed actions, the two proposed changes in quota, the proposed prohibition on bag-limit sales, and the proposed gear requirements to minimize the incidental take of sea turtles and smalltooth sawfish, are expected to have direct economic impacts on fishing entities. The proposed snowy grouper quota of 82,900 lb (37,603 kg) gutted weight would result in a loss of 1,100 lb (499 kg) of snowy grouper to the commercial sector. Assuming an average ex-vessel price of \$2.31 per pound (2006 dollars), this reduction would be valued at approximately \$2,500, or a loss of approximately \$13 per vessel active in the fishery (190 vessels; 2001–2005 average number of commercial vessels per year with snowy grouper landings). The proposed red porgy quota of 190,050 lbs (86,205 kg) gutted weight would result in a gain of 63,050 lb (28,599 kg) gutted weight of red porgy to the commercial sector. This gain is comprised of approximately 59,000 lbs (26,762 kg) gutted weight resulting from the increase in red porgy TAC as a result of the rebuilding strategy implemented through Amendment 15A and the remaining increase resulting from a one percent increase in the commercial allocation established by Amendment 15B. Assuming an average ex-vessel

price of \$1.40 per pound (2006 dollars), the total gain in commercial quota would be valued at approximately \$88,300, or a gain of approximately \$493 per vessel active in the fishery (179 vessels; 2001–2005 average number of commercial vessels per year with red porgy landings).

Assuming the implementation of compatible regulations in all states, thus encompassing snapper-grouper harvested in both state and Federal waters as well as marketed through all state and federally permitted dealers, the proposed elimination of bag-limit sales is projected to result in the transfer of approximately \$2.4 million in nominal ex-vessel revenues (2004–2006 average) from for-hire and commercial fishing vessels that do not have a Federal commercial snapper-grouper permit to the federally permitted commercial snapper-grouper sector. This would constitute a total reduction of approximately \$316,000 per year for fish sales by vessels in the federally permitted for-hire fishery, or a 17-percent reduction in average annual gross revenues from fish sales per vessel, and approximately \$2.085 million per year in sales for commercial vessels that do not possess a Federal commercial snapper-grouper permit, or a 7-percent reduction in average annual gross revenues per vessel. It should be noted that snapper-grouper fish sales by federally permitted for-hire vessels, estimated at approximately \$2,000 per vessel on average, constitute a minor portion of total average annual revenues, with the majority of revenues coming from charter fees. As discussed above, South Atlantic charter vessels are estimated to have average gross annual revenues of approximately \$32,000–\$89,000, across all states, while headboat average annual revenues are estimated to range from \$149,000–\$362,000.

If compatible regulations are not adopted in any state, the estimated reduction in bag-limit sales revenues would be limited to those harvests that originate from the EEZ by all vessels, bag limit harvests from state waters by vessels with the Federal charter vessel/headboat permit for South Atlantic snapper-grouper, and harvests that are marketed through dealers with a Federal permit. This would lower the reduction in bag-limit sales to approximately \$1.562–\$1.799 million, accounting for the estimated portion of bag-limit sales that originate in state waters (approximately 9 percent) and the estimated portion of bag-limit sales that are marketed through dealers without Federal licenses (approximately 21–35 percent). For the Federal for-hire sector,

using the average EEZ bag-limit sales (approximately \$267,000) and dealer proportions (approximately 11 percent state dealer sales if the North Carolina and South Carolina proportion is applied throughout and 34 percent otherwise), the reduction in bag limit sales would be approximately \$175,000-\$238,000. For the non-Federal sector, using the average EEZ bag-limit sales (approximately \$1.921 million) and dealer proportions (approximately 23 percent state dealer sales if the North Carolina and South Carolina proportion is applied throughout and 35 percent otherwise), the reduction would be approximately \$1.246 million to \$1.483 million. These values equate to approximately a 10–13 percent reduction in average annual for-hire fish-sales revenues (\$175,000-\$238,000/159 vessels/\$11,568 total average annual revenues) and approximately a 4–5 percent reduction in average annual revenues to non-federally permitted vessels (\$1.246-\$1.483 million/1,439 vessels/\$21,317 total average revenues).

The transference of these revenues to the Federal commercial snapper-grouper sector would result in an estimated increase of approximately 9 percent in nominal ex-vessel revenues per year (\$2.4 million/717 vessels/\$38,000 average annual revenues) if compatible regulations are adopted by all states, and from 5 percent to 6 percent if no states adopt compatible regulations (\$1.422-\$1.729 million/717 vessels/\$38,000 average annual revenues).

The proposed gear requirements to minimize the incidental take impact on sea turtles and smalltooth sawfish are estimated to increase vessel gear costs by \$617-\$1,115, based on low and high estimated costs, respectively, for each of the 12 different pieces of required gear and assuming the vessel does not already possess any of the required gear. Few actual vessels would be expected to have to incur the maximum cost, however, since most vessels are expected to already possess and use most of this gear or allowable substitutes. For-hire vessels that exclusively harvest fish through snorkeling or diving activities and do not possess hook-and-line gear on-board would not have to carry the required gear. For those vessels that needed to carry the gear, any costs would be one-time expenditures, subject to breakage or loss replacement.

Three alternatives, including the status quo, were considered for the action to address the sale of snapper-grouper harvested under the bag limit. The proposed rule would prohibit the purchase and sale of bag-limit fish harvested from or possessed in the EEZ

by vessels that did not possess the Federal commercial snapper-grouper permit, and bag-limit fish harvested in either state or EEZ waters by vessels that possess the Federal charter vessel/headboat permit for South Atlantic snapper-grouper. The first alternative, the status quo, would continue to allow the sale of snapper-grouper harvested under the bag limit, continue to allow the Federal commercial snapper-grouper quota to be harvested and sold by vessels that did not possess the Federal commercial snapper-grouper permit, continue increased commercial quota pressure and accelerated quota closures, result in continued adverse economic effects on the Federal commercial snapper-grouper sector, and not achieve the Council's objectives.

The second alternative to the proposed prohibition of sales of snapper-grouper harvested under the bag limit would allow continued sales by vessels with a Federal for-hire snapper-grouper permit. While this would reduce the adverse economic effects on the Federal commercial snapper-grouper sector associated with the status quo, these effects would not be eliminated, thereby generating less net economic benefits for this sector and associated businesses than the proposed action.

Four alternatives, including the status quo, were considered for the action to establish a program to monitor and assess bycatch. The proposed rule would require the use of a variety of bycatch monitoring methods, which include observers and use of an ELB or video monitoring program, until the Atlantic Coastal Cooperative Statistics Program (ACCSP) bycatch monitoring program can be implemented. The first alternative to the proposed program, the status quo, would only utilize existing information, would not improve current capabilities to monitor and assess bycatch, and would not achieve the Council's objectives. The second alternative to the proposed bycatch monitoring and assessment program would require the implementation of the ACCSP bycatch monitoring program. The ACCSP is a cooperative state-federal program whose mission is to design, implement, and conduct marine fisheries statistics data collection programs and to integrate those data into a single data management system that will meet the needs of fishery managers, scientists, and fishermen. The ACCSP design includes data modules for catch and effort data, permit and vessel registration, biological data, bycatch data, quota monitoring data, economic data, and sociological data. These modules are being implemented

on a priority basis consistent with available funding. At this time, funding is not available for implementation of the bycatch data module. While this program would generate the best data in the shortest period of time, with accompanying social and economic benefits, the program lacks the flexibility of allowing interim methods until such time as the preferred methods can be funded and adopted. As a result, this alternative would not meet the Council's objectives. The overall cost to implement the ACCSP bycatch monitoring program has not been identified.

The third alternative to the proposed bycatch monitoring and assessment program would implement a program that is less comprehensive than the proposed program. This program would require a variety of reporting and monitoring tools, including observers, logbooks, and video monitoring, among other methods, but would be less structured and systematic than the ACCSP program or the proposed program. The cost of this program is unknown. As a result of being less structured and systematic, however, this program would be expected to be less costly than the proposed program, but would also be expected to result in poorer data and generate fewer long-term benefits than the proposed program.

Three alternatives, including the status quo, were considered for the action to establish sea turtle and smalltooth sawfish take impact minimization measures. The proposed rule would require a number of impact minimization measures, including the carrying of release equipment. The first alternative to the proposed equipment requirements, the status quo, would not achieve the desired take-impact minimization and would not meet the Council's objectives.

The second alternative to the proposed equipment requirements would require the acquisition of less costly equipment (vessels with less than four feet of freeboard would be required to carry less release gear and vessels with more than four feet of freeboard would have more gear substitution options). However, these requirements would not be expected to result in the same reduction in bycatch impact minimization for these species and, as a result, would not be expected to result in as much protection for the species and net economic and social benefits for society.

Three alternatives, including the status quo, were considered for the action to establish the permit renewal period. The proposed rule would allow

1 year after permit expiration for permit renewal. The first alternative to the proposed renewal period, the status quo, would retain the current 60-day renewal requirement and would not achieve the Council's objective of increasing permit renewal flexibility.

The second alternative to the proposed renewal period would allow 6 months after permit expiration for permit renewal. While this would add greater flexibility for permit renewal relative to the status quo, thereby reducing the likelihood of unintended permit loss and associated economic losses, this alternative would not be consistent with the permit renewal period of most other permits and would not be as flexible as the proposed action. Having common renewal periods makes it possible to renew all permits at the same time, decreases the burden associated with permit renewal, and decreases the possibility of unintended permit loss due to non-renewal.

Seven alternatives, including the status quo, were considered for the action to establish options for transfer provisions for permits owned by corporations comprised of family members. The proposed rule would allow the transfer of the permit to a corporation comprised solely of immediate family members. Five of the alternatives are variations of the proposed action and vary by differences in required action if the proposed requirement for the submission of the annual corporate report includes shareholders not listed on the original permit application. The first alternative to the proposed transferability option, the status quo, would continue to require a two-for-one permit exchange in order for a permit holder to incorporate their business operation and change the ownership of the permit to the corporation. Current permit holders would be prevented from receiving the tax and other financial benefits of incorporation without incurring the added expense of purchasing a second snapper-grouper permit. Because this restriction was outside the scope of the Council's original intent for the two-for-one permit transfer requirement, maintaining the status quo would not achieve the Council's objectives.

The second alternative to the proposed permit transferability option would treat the addition of family members as corporate shareholders the same as non-family members. Thus, once a permit is transferred to a corporation, renewal of the permit would not be restricted by change in shareholders. This alternative would allow the most liberal transfer flexibility but would not preserve the Council's

intent to promote family-owned fishing businesses.

The third alternative to the proposed permit transferability option would not allow a permit to be renewed and transferred if the annual corporate report showed a shareholder not listed on the original corporate documentation. This alternative would be the most restrictive of the sub-set of alternatives that allow family incorporation. Because this alternative would eliminate the flexibility to change corporate shareholders even among family members, this alternative would result in less economic benefits than the proposed action.

The fourth alternative to the proposed permit transferability option would require a two-for-one transfer if the annual corporate report showed a shareholder not listed on the original corporate documentation. This requirement would increase the cost of transfer because of the cost of a second permit, estimated to cost between \$9,000 and \$21,000, and generate less net economic benefits than the proposed action.

The fifth alternative to the proposed permit transferability option would require either a two-for-one transfer or a transfer back to person who is an immediate family member of the permit holder who originally transferred the permit to the family corporation if the annual corporate report showed a shareholder not listed on the original corporate documentation. This requirement would either increase the cost of transfer or eliminate the tax and financial benefits of incorporation and, thus, generate less net economic benefits than the proposed action.

The sixth alternative to the proposed permit transferability option would eliminate the two-for-one permit transfer requirement. Permit holders would be able to transfer their permit to corporations, family owned or otherwise, and freely change shareholders without incurring the cost of obtaining an additional permit. While this would create the most flexible transfer conditions, it would eliminate the ability to reduce the size of the commercial snapper-grouper fleet through permit renewal requirements. While the optimal fleet size to maximize social and economic benefits to the nation has not been identified, the fishery is believed by the Council to still be overcapitalized and further contraction is necessary. Thus, this alternative would generate less net economic benefits than the proposed action.

In addition to the actions discussed above, Amendment 15B considered

alternatives to establish allocation ratios for snowy grouper and red porgy, and management reference points and stock status criteria for golden tilefish. These alternatives are discussed in the following paragraphs.

Four alternatives, including the status quo, were considered for the action to set the snowy grouper allocation, which was necessary to establish the commercial quota and recreational allocation. The proposed action would set the allocation to the recreational sector equal to 5 percent, resulting in a commercial allocation of 95 percent and a recreational allocation of 5 percent. The first alternative to the proposed action, the status quo, would not establish commercial and recreational allocations. Because allocations are necessary to quantify the commercial quota, this alternative would not achieve the Council's objective.

The second alternative to the proposed snowy grouper allocation would set the recreational allocation to 7 percent, while the third alternative would set the recreational allocation to 12 percent. Both alternatives would be expected to increase the economic benefits to the recreational sector while reducing the economic benefits to the commercial sector. Net economic benefits to the nation cannot be determined with available data. These alternatives were not selected as the proposed snowy grouper allocation because they were derived from shorter time periods than the proposed action, 1992–2005 and just 2005, respectively, compared to 1986–2005 for the proposed action, resulting in excessive influence of unrealistic spikes in recreational landings.

Four alternatives, including the status quo, were considered for the action to set the red porgy allocation. The proposed action would set both the commercial and recreational allocations equal at 50 percent. The status quo would not establish commercial and recreational allocations. Because allocations are necessary to quantify the commercial quota, this alternative would not achieve the Council's objective.

The second alternative to the proposed red porgy allocation would set the recreational sector allocation to 32 percent, while the third alternative would set the recreational allocation to 56 percent. Each sector would be expected to receive increased or decreased economic benefits relative to the status quo as their allocation increased or decreased. Net benefits to the nation under any alternative cannot be quantified with available data. Neither of these alternatives were



selected as the preferred action since each would involve substantial changes from what the Council believes, based on advisory panel comment, is the most equitable allocation which is the average sector harvest from 1999–2003, or 49 percent commercial and 51 percent recreational. The proposed action varies from this allocation by only one percentage point, allocating 50 percent of the TAC to each sector. While not precisely matching the average 1999–2003 harvest, the Council believes that the proposed allocation equitably accounts for the increased value of red porgy to the recreational sector while reversing declines in commercial harvests due to previous regulatory action.

Two alternatives, including the status quo, were considered for the action to specify MSY for golden tilefish. The proposed MSY is approximately 336,000 lb (152,407 kg) whole weight. The first alternative to the proposed MSY, the status quo, is likely an overestimate since the associated yield is approximately 736,000 lb (333,844 kg) whole weight and a harvest level this high has not been recorded since 1995, suggesting that the MSY is inappropriate for this resource. Allowing harvest at this level may lead to excessive exploitation, precipitating the imposition of restrictive management measures and reductions in economic and social benefits relative to the proposed action.

Four alternatives, including the status quo, were considered for the action to specify OY for golden tilefish. The proposed OY is estimated at approximately 327,000 lb (148,325 kg) whole weight. Similar to the status quo MSY, the first alternative to the proposed OY, the status quo, is likely an overestimate and inappropriate for this resource since it is estimated at approximately 364,000 lb (165,108 kg) whole weight, which is greater than the proposed MSY. The second and third alternatives would establish OYs of approximately 315,000 lb (142,882 kg) whole weight and approximately 333,000 lb (151,046 kg) whole weight, respectively and are, respectively, more and less conservative than the proposed action. The second alternative to the proposed OY is believed to be more conservative than necessary to protect the resource and would be expected to result in greater foregone economic benefits than the proposed action. Conversely, the third alternative to the proposed OY is believed to be insufficiently conservative to protect the resource. The proposed OY is believed to be the appropriate choice to minimize

foregone economic benefits while protecting the resource.

Three alternatives, including the status quo, were considered for the action to specify the MSST for golden tilefish. The proposed MSST would establish a value of approximately 1.454 million lb (0.660 million kg) whole weight. The first alternative to the proposed MSST, the status quo, would establish an MSST of approximately 1.784 million lb (0.809 million kg) whole weight, would require the largest minimum stock size, and would increase the likelihood that the resource be declared overfished, necessitating harvest reductions and imposing short term adverse economic impacts. The second alternative to the proposed MSST would require the smallest minimum stock size of approximately 969,000 lb (439,531 kg) whole weight. While this specification would minimize, among the three alternatives, the likelihood of the stock being declared overfished, this stock level is believed to be insufficiently conservative to provide adequate protection to the resource. The proposed MSST specifies a minimum stock size intermediate to the other alternatives and is believed to be the appropriate choice to minimize the likelihood of triggering restrictive management while protecting the resource.

Notwithstanding any other provision of law, no person is required to respond to, nor shall a person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) control number.

This proposed rule contains collection-of-information requirements subject to the PRA applicable to vessels in the South Atlantic snapper-grouper fishery--namely, requirements for: (1) submission of logbooks by private recreational vessels; (2) notification of vessel trips related to vessel observers; (3) preparation of vessel and gear characterization forms for vessels selected to participate in the ELB and video monitoring program; (4) installation of ELBs and data downloads; (5) installation of video monitors and data downloads; and (6) change of ownership of a vessel with a transferable commercial vessel permit.

These requirements have been submitted to OMB for approval. The public reporting burdens for these collections of information are estimated to average--(1) 10 minutes for each logbook submission, (2) 4 minutes for each notification of a vessel trip, (3) 20

minutes for each vessel and gear characterization form, (4) 31 minutes for each ELB installation and data download, (5) 8 hours for each video monitor installation and data download, and (6) 20 minutes for each change of ownership. These estimates of the public reporting burdens include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collections of information. Public comment is sought regarding: whether these proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the burden estimates; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collections of information, including through the use of automated collection techniques or other forms of information technology. Send comments regarding the burden estimates or any other aspect of the collection-of-information requirements, including suggestions for reducing the burden, to NMFS and to OMB (see **ADDRESSES**).

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

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

Dated: June 24, 2009.

**John Oliver,**

*Deputy Assistant Administrator for Operations, 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 definition of “Smalltooth sawfish” is added in alphabetical order to read as follows:

##### § 622.2 Definitions and acronyms.

\* \* \* \* \*

*Smalltooth sawfish* means the species *Pristis pectinata*, or a part thereof.

\* \* \* \* \*

3. In § 622.5, paragraphs (a)(1)(iv), (b)(1), and (b)(2) are revised and paragraph (g) is added to read as follows:

##### § 622.5 Recordkeeping and reporting.

\* \* \* \* \*



(a) \* \* \*

(1) \* \* \*

(iv) *South Atlantic snapper-grouper*—(A) *General reporting requirements.* The owner or operator of a vessel for which a commercial permit for South Atlantic snapper-grouper has been issued, as required under § 622.4(a)(2)(vi), or whose vessel fishes for or lands South Atlantic snapper-grouper in or from state waters adjoining the South Atlantic EEZ, who is selected to report by the SRD must maintain a fishing record on a form available from the SRD and must submit such record as specified in paragraph (a)(2) of this section.

(B) *Electronic logbook/video monitoring reporting.* The owner or operator of a vessel for which a commercial permit for South Atlantic snapper-grouper has been issued, as required under § 622.4(a)(2)(vi), who is selected to report by the SRD must participate in the NMFS-sponsored electronic logbook and/or video monitoring reporting program as directed by the SRD. Compliance with the reporting requirements of this paragraph (a)(1)(iv)(B) is required for permit renewal.

(C) *Wreckfish reporting.* The wreckfish shareholder under § 622.15, or operator of a vessel for which a commercial permit for wreckfish has been issued, as required under § 622.4(a)(2)(vii), must—

(1) Maintain a fishing record on a form available from the SRD and must submit such record as specified in paragraph (a)(2) of this section.

(2) Make available to an authorized officer upon request all records of offloadings, purchases, or sales of wreckfish.

\* \* \* \* \*

(b) \* \* \*

(1) *Coastal migratory pelagic fish, reef fish, snapper-grouper, and Atlantic dolphin and wahoo*—(i) *General reporting requirement.* The owner or operator of a vessel for which a charter vessel/headboat permit for Gulf coastal migratory pelagic fish, South Atlantic coastal migratory pelagic fish, Gulf reef fish, South Atlantic snapper-grouper, or Atlantic dolphin and wahoo has been issued, as required under § 622.4(a)(1), or whose vessel fishes for or lands such coastal migratory pelagic fish, reef fish, snapper-grouper, or Atlantic dolphin or wahoo in or from state waters adjoining the applicable Gulf, South Atlantic, or Atlantic EEZ, who is selected to report by the SRD must maintain a fishing record for each trip, or a portion of such trips as specified by the SRD, on forms provided by the SRD and must submit

such record as specified in paragraph (b)(2) of this section.

(ii) *Electronic logbook/video monitoring reporting.* The owner or operator of a vessel for which a charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, as required under § 622.4(a)(1), who is selected to report by the SRD must participate in the NMFS-sponsored electronic logbook and/or video monitoring reporting program as directed by the SRD. Compliance with the reporting requirements of this paragraph (b)(1)(ii) is required for permit renewal.

(2) *Reporting deadlines*—(i) *Charter vessels.* Completed fishing records required by paragraph (b)(1)(i) of this section for charter vessels must be submitted to the SRD weekly, postmarked not later than 7 days after the end of each week (Sunday). Information to be reported is indicated on the form and its accompanying instructions.

(ii) *Headboats.* Completed fishing records required by paragraph (b)(1)(i) of this section for headboats must be submitted to the SRD monthly and must either be made available to an authorized statistical reporting agent or be postmarked not later than 7 days after the end of each month. Information to be reported is indicated on the form and its accompanying instructions.

\* \* \* \* \*

(g) *Private recreational vessels in the South Atlantic snapper-grouper fishery.* The owner or operator of a vessel that fishes for or lands South Atlantic snapper-grouper in or from the South Atlantic EEZ who is selected to report by the SRD must—

(1) Maintain a fishing record for each trip, or a portion of such trips as specified by the SRD, on forms provided by the SRD. Completed fishing records must be submitted to the SRD monthly and must either be made available to an authorized statistical reporting agent or be postmarked not later than 7 days after the end of each month. Information to be reported is indicated on the form and its accompanying instructions.

(2) Participate in the NMFS-sponsored electronic logbook and/or video monitoring reporting program as directed by the SRD.

4. In § 622.7, paragraph (d) is revised to read as follows:

#### § 622.7 Prohibitions.

\* \* \* \* \*

(d) Falsify or fail to maintain, submit, or provide information or fail to comply with inspection requirements or restrictions, as specified in § 622.5.

\* \* \* \* \*

5. In § 622.8, paragraph (a)(6) is added to read as follows:

#### § 622.8 At-sea observer coverage.

(a) \* \* \*

(6) *South Atlantic snapper-grouper.* (i) A vessel for which a Federal commercial vessel permit for South Atlantic snapper-grouper or a charter vessel/headboat permit for South Atlantic snapper-grouper has been issued must carry a NMFS-approved observer, if the vessel's trip is selected by the SRD for observer coverage. Vessel permit renewal is contingent upon compliance with this paragraph (a)(6)(i).

(ii) Any other vessel that fishes for South Atlantic snapper-grouper in the South Atlantic EEZ must carry a NMFS-approved observer, if the vessel's trip is selected by the SRD for observer coverage.

\* \* \* \* \*

6. In § 622.10, paragraph (b)(1) is revised and paragraph (c) is added to read as follows:

#### § 622.10 Conservation measures for protected resources.

\* \* \* \* \*

(b) \* \* \*

(1) *Sea turtle conservation measures.*

(i) The owner or operator of a vessel for which a commercial vessel permit for Gulf reef fish or a charter vessel/headboat permit for Gulf reef fish has been issued, as required under §§ 622.4(a)(2)(v) and 622.4(a)(1)(i), respectively, must post inside the wheelhouse, or within a waterproof case if no wheelhouse, a copy of the document provided by NMFS titled, "Careful Release Protocols for Sea Turtle Release With Minimal Injury," and must post inside the wheelhouse, or in an easily viewable area if no wheelhouse, the sea turtle handling and release guidelines provided by NMFS.

(ii) Such owner or operator must also comply with the sea turtle bycatch mitigation measures, including gear requirements and sea turtle handling requirements, specified in §§ 635.21(c)(5)(i) and (ii) of this chapter, respectively.

(iii) Those permitted vessels with a freeboard height of 4 ft (1.2 m) or less must have on board a dipnet, tire, short-handled dehooker, long-nose or needle-nose pliers, bolt cutters, monofilament line cutters, and at least two types of mouth openers/mouth gags. This equipment must meet the specifications described in §§ 635.21(c)(5)(i)(E) through (L) of this chapter with the following modifications: the dipnet handle can be of variable length, only one NMFS-approved short-handled dehooker is required (i.e.,

§ 635.21(c)(5)(i)(G) or (H) of this chapter); and life rings, seat cushions, life jackets, and life vests or any other comparable, cushioned, elevated surface that allows boated sea turtles to be immobilized, may be used as alternatives to tires for cushioned surfaces as specified in § 635.21(c)(5)(i)(F) of this chapter. Those permitted vessels with a freeboard height of greater than 4 ft (1.2 m) must have on board a dipnet, tire, long-handled line clipper, a short-handled and a long-handled dehooker, a long-handled device to pull an inverted "V", long-nose or needle-nose pliers, bolt cutters, monofilament line cutters, and at least two types of mouth openers/mouth gags. This equipment must meet the specifications described in § 635.21(c)(5)(i)(A) through (L) of this chapter with the following modifications: only one NMFS-approved long-handled dehooker (§ 635.21(c)(5)(i)(B) or (C)) of this chapter and one NMFS-approved short-handled dehooker (§ 635.21(c)(5)(i)(G) or (H) of this chapter) are required; and life rings, seat cushions, life jackets, and life vests, or any other comparable, cushioned, elevated surface that allows boated sea turtles to be immobilized, may be used as alternatives for cushioned surfaces as specified in § 635.21(c)(5)(i)(F) of this chapter.

\* \* \* \* \*

(c) *South Atlantic snapper-grouper commercial vessels and charter vessels/headboats*—(1) *Sea turtle conservation measures*. (i) The owner or operator of a vessel for which a commercial vessel permit for South Atlantic snapper-grouper or a charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, as required under §§ 622.4(a)(2)(vi) and 622.4(a)(1)(i), respectively, and whose vessel has on board any hook-and-line gear, must post inside the wheelhouse, or within a waterproof case if no wheelhouse, a copy of the document provided by NMFS titled, "Careful Release Protocols for Sea Turtle Release With Minimal Injury," and must post inside the wheelhouse, or in an easily viewable area if no wheelhouse, the sea turtle handling and release guidelines provided by NMFS.

(ii) Such owner or operator must also comply with the sea turtle bycatch mitigation measures, including gear requirements and sea turtle handling requirements, specified in § 635.21(c)(5)(i) and (ii) of this chapter, respectively.

(iii) The required gear must meet the specifications described in § 635.21(c)(5)(i)(A) through (L) of this

chapter with the following modifications: only one NMFS-approved long-handled dehooker (§ 635.21(c)(5)(i)(B) or (C) of this chapter) and one NMFS-approved short-handled dehooker (§ 635.21(c)(5)(i)(G) or (H) of this chapter) are required; and life rings, seat cushions, life jackets, life vests, or any other comparable, cushioned, elevated surface that allows boated sea turtles to be immobilized, may be used as alternatives to tires for cushioned surfaces as specified in § 635.21(c)(5)(i)(F) of this chapter.

(2) *Smalltooth sawfish conservation measures*. The owner or operator of a vessel for which a commercial vessel permit for South Atlantic snapper-grouper or a charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, as required under §§ 622.4(a)(2)(vi) and 622.4(a)(1)(i), respectively, that incidentally catches a smalltooth sawfish must—

(i) Keep the sawfish in the water at all times;

(ii) If it can be done safely, untangle the line if it is wrapped around the saw;

(iii) Cut the line as close to the hook as possible; and

(iv) Not handle the animal or attempt to remove any hooks on the saw, except with a long-handled dehooker.

#### § 622.15 [Amended]

7. In § 622.15, in paragraphs (c)(4)(iii) and (c)(5) remove cross references to "§ 622.5(a)(1)(iv)(B)" and add in its place the cross reference "§ 622.5(a)(1)(iv)(C)(1)".

8. In § 622.18, paragraphs (b)(1)(ii) and (c) are revised to read as follows:

#### § 622.18 South Atlantic snapper-grouper limited access.

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(ii) A transferable permit may be transferred upon a change of ownership of a permitted vessel with such permit—

(A) From one to another of the following: husband, wife, son, daughter, brother, sister, mother, or father; or

(B) From an individual to a corporation whose shares are all held by the individual or by the individual and one or more of the following: husband, wife, son, daughter, brother, sister, mother, or father. The application for transfer of a permit under this paragraph (b)(1)(ii)(B) and each application for renewal of such permit must be accompanied by a current annual report of the corporation that specifies all shareholders of the corporation. A permit will not be renewed if the annual report shows a new shareholder other

than a husband, wife, son, daughter, brother, sister, mother, or father.

\* \* \* \* \*

(c) *Renewal*. NMFS will not reissue a commercial vessel permit for South Atlantic snapper-grouper if the permit is revoked or if the RA does not receive an application for renewal within one year of the permit's expiration date.

9. In § 622.42, paragraphs (e)(1) and (e)(6) are revised to read as follows:

#### § 622.42 Quotas.

\* \* \* \* \*

(e) \* \* \*

(1) *Snowy grouper*. (i) For the fishing year that commences January 1, 2008—84,000 lb (38,102 kg).

(ii) For the fishing year that commences January 1, 2009, and for subsequent fishing years—82,900 lb (37,603 kg).

\* \* \* \* \*

(6) *Red porgy*. (i) For the fishing year that commences January 1, 2008—127,000 lb (57,606 kg).

(ii) For the fishing year that commences January 1, 2009, and for subsequent fishing years—190,050 lb (86,205 kg).

\* \* \* \* \*

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

#### § 622.44 Commercial trip limits.

\* \* \* \* \*

(c) \* \* \*

(3) *Snowy grouper*. (i) Until the quota specified in § 622.42(e)(1) is reached—100 lb (45 kg).

(ii) See § 622.43(a)(5) for the limitations regarding snowy grouper after the fishing year quota is reached.

\* \* \* \* \*

11. In § 622.45, paragraph (d) is revised to read as follows:

#### § 622.45 Restrictions on sale/purchase.

\* \* \* \* \*

(d) *South Atlantic snapper-grouper*.

(1) A 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), or a South Atlantic snapper-grouper harvested in the EEZ and possessed under the bag limits specified in § 622.39(d), may not be sold or purchased. In addition, a South Atlantic snapper-grouper harvested or possessed by a vessel that is operating as a charter vessel or headboat with a Federal charter vessel/headboat permit for South Atlantic snapper-grouper may not be sold or purchased regardless of where harvested, i.e., in state or Federal waters.

(2) A person may sell South Atlantic snapper-grouper harvested in the EEZ only to a dealer who has a valid permit for South Atlantic snapper-grouper, as required under § 622.4(a)(4).

(3) A person may purchase South Atlantic snapper-grouper harvested in the EEZ only from a vessel that has a valid commercial permit for South Atlantic snapper-grouper, as required under § 622.4(a)(2)(vi).

(4) A warsaw grouper or speckled hind in or from the South Atlantic EEZ may not be sold or purchased.

(5) No person may sell or purchase a snowy grouper, golden tilefish, greater amberjack, vermilion snapper, black sea bass, or red porgy harvested from or possessed in the South Atlantic, i.e., in state or Federal waters, by a vessel for which a valid Federal commercial permit for South Atlantic snapper-grouper has been issued for the remainder of the fishing year after the applicable commercial quota for that species specified in § 622.42(e) has been reached. The prohibition on sale/purchase during these periods does not apply to such of the applicable species that were harvested, landed ashore, and sold prior to the applicable commercial quota being reached and were held in cold storage by a dealer or processor.

(6) During January, February, March, and April, no person may sell or purchase a red porgy harvested from the South Atlantic EEZ or, if harvested by a vessel for which a valid Federal commercial permit for South Atlantic snapper-grouper has been issued, harvested from the South Atlantic, i.e., in state or Federal waters. The prohibition on sale/purchase during

January through April does not apply to red porgy that were harvested, landed ashore, and sold prior to January 1 and were held in cold storage by a dealer or processor. This prohibition also does not apply to a dealer's purchase or sale of red porgy harvested from an area other than the South Atlantic, provided such fish is accompanied by documentation of harvest outside the South Atlantic. The requirements for such documentation are specified in paragraph (d)(9) of this section.

(7) During April, no person may sell or purchase a greater amberjack harvested from the South Atlantic EEZ or, if harvested by a vessel for which a valid Federal commercial permit for South Atlantic snapper-grouper has been issued, harvested from the South Atlantic, i.e., in state or Federal waters. The prohibition on sale/purchase during April does not apply to greater amberjack that were harvested, landed ashore, and sold prior to April 1 and were held in cold storage by a dealer or processor. This prohibition also does not apply to a dealer's purchase or sale of greater amberjack harvested from an area other than the South Atlantic, provided such fish is accompanied by documentation of harvest outside the South Atlantic. The requirements for such documentation are specified in paragraph (d)(9) of this section.

(8) During January through April, no person may sell or purchase a gag, black grouper, red grouper, scamp, red hind, rock hind, yellowmouth grouper, tiger grouper, yellowfin grouper, graysby, or coney harvested from or possessed in the South Atlantic EEZ or, if harvested or possessed by a vessel for which a

valid Federal commercial permit for South Atlantic snapper-grouper has been issued, harvested from the South Atlantic, i.e., in state or Federal waters. The prohibition on sale/purchase during January through April does not apply to such species that were harvested, landed ashore, and sold prior to January 1 and were held in cold storage by a dealer or processor. This prohibition also does not apply to a dealer's purchase or sale of such species harvested from an area other than the South Atlantic, provided such fish is accompanied by documentation of harvest outside the South Atlantic. The requirements for such documentation are specified in paragraph (d)(9) of this section.

(9) The documentation supporting a dealer's purchase or sale of applicable species during the times specified in paragraphs (d)(6) through (d)(8) of this section must contain:

(i) The information specified in part 300, subpart K, of this title for marking containers or packages of fish or wildlife that are imported, exported, or transported in interstate commerce;

(ii) The official number, name, and home port of the vessel harvesting the applicable species;

(iii) The port and date of offloading from the vessel harvesting the applicable species; and

(iv) A statement signed by the dealer attesting that the applicable species was harvested from an area other than the South Atlantic.

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