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50 CFR Part 622
Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Generic Annual Catch Limits/Accountability Measures Amendment for the Gulf of Mexico; Final Rule

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 100217097–1757–02]

RIN 0648–AY22

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Generic Annual Catch Limits/Accountability Measures Amendment for the Gulf of Mexico

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement the Generic Annual Catch Limits/Accountability Measures Amendment (Generic ACL Amendment) to the Red Drum, Reef Fish Resources, Shrimp, and Coral and Coral Reefs Fishery Management Plans for the Gulf of Mexico (FMPs) as prepared and submitted by the Gulf of Mexico Fishery Management Council (Council). This rule defers management of selected species to other Federal or state agencies; removes species not currently in need of Federal management from the FMPs; develops species groups; modifies framework procedures; establishes annual catch limits (ACLs); and establishes accountability measures (AMs). The intent of this final rule is to specify ACLs for species not undergoing overfishing while maintaining sustainable catch levels.

DATES: This rule is effective January 30, 2012 except for the amendments to § 622.32(b)(2)(iii) and § 622.39(b)(1)(ii). NOAA will publish a document announcing the effective date of the amendments to § 622.32(b)(2)(iii) and § 622.39(b)(1)(ii) in the **Federal Register.**

ADDRESSES: Electronic copies of the Generic ACL Amendment, which includes a final environmental impact statement (FEIS), an initial regulatory flexibility analysis (IRFA), and a regulatory impact review, may be obtained from the Southeast Regional Office Web Site at *http://sero.nmfs.noaa.gov/sf/pdfs/Final_Generic_ACL_AM_Amendment_September_9_2011.pdf.*

FOR FURTHER INFORMATION CONTACT: Rich Malinowski, Southeast Regional Office, NMFS, telephone (727) 824–5305; email: *Rich.Malinowski@noaa.gov.*

SUPPLEMENTARY INFORMATION: The fisheries for reef fish, red drum, shrimp, and coral and coral reefs of the Gulf of Mexico (Gulf) are managed under their respective FMPs. The FMPs were prepared by the Council and are implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

On September 26, 2011, NMFS published a notice of availability for the Generic ACL Amendment and requested public comment (76 FR 59373). On October 25, 2011, NMFS published a proposed rule for the Generic ACL Amendment and requested public comment (76 FR 66021). The proposed rule and the Generic ACL Amendment outline the rationale for the actions contained in this final rule. A summary of the actions implemented by this final rule are provided below.

Through this final rule NMFS will defer to other entities' management of selected stocks that are uncommon in Gulf Federal waters and are primarily harvested within areas under the jurisdiction of the South Atlantic Fishery Management Council (South Atlantic Council). This final rule will remove Nassau grouper from the Reef Fish FMP, and the Council has requested that the Secretary designate the South Atlantic Council as the responsible council for Nassau grouper. Similarly, the rule will remove octocorals from the Coral and Coral Reefs FMP. Removal of these species from their respective FMPs avoids unnecessary duplication of management efforts. NMFS is delaying the effective date for removing the prohibition on the harvest of Nassau grouper in the Gulf until the South Atlantic Council has implemented the appropriate changes to the FMP for the Snapper-Grouper Fishery of the South Atlantic to prevent any lapse in the protective regulations necessary for the species.

This rule will remove 10 species from the Reef Fish FMP that the Council determined are not in need of Federal management. The species to be removed include those species for which average landings are less than 15,000 lb (6,804 kg) annually, or that are harvested primarily in state waters. Additionally, this rule revises or creates five species groups within the Reef Fish FMP to combine species with similar fishery characteristics, such as habitat and harvest methods, to allow for more effective management.

To facilitate timely adjustments to harvest parameters and other management measures, this final rule revises the current framework procedures. This revision gives the Council and NMFS greater flexibility to more promptly alter harvest parameters and other management measures as new scientific information becomes available.

This rule establishes initial ACLs for species or species groups not subject to overfishing. Additionally, the ACL for the other shallow water grouper (SWG) complex will be revised. The ACL for the other SWG complex includes black grouper, scamp, yellowfin grouper, and yellowmouth grouper, and does not include gag and red grouper which have ACLs that are already in place. The rule also establishes allowable biological catch (ABC) limits in the Gulf Council's area of jurisdiction for several species managed separately by both the Gulf and South Atlantic Councils, but for which only single stock assessments, and single ABCs covering both Council's areas of jurisdiction, were provided. This rule establishes commercial and recreational harvest allocations for black grouper for the Gulf based upon historical landings.

To implement both in-season and post-season management of a stock to control or mitigate harvest levels with respect to the ACL, this rule establishes AMs for selected stocks. With the exception of royal red shrimp, the stocks and stock complexes requiring AMs are in the reef fish fishery management unit (FMU).

For species within the commercial sector of a Gulf individual fishing quota (IFQ) program, this rule will make the IFQ program itself the AM for the commercial sector because commercial landings are closely monitored and IFQ participants are limited to their specific IFQ allocation each fishing year. Therefore, this rule will implement AMs for the recreational sector in the event of a stock ACL overage for the IFQ related species.

For non-IFQ related species this rule will implement new ACLs and AMs in both sectors for the following: Vermilion snapper, lane snapper, mid-water snappers (silk snapper, wenchman, blackfin snapper, and queen snapper), mutton snapper, yellowtail snapper, gray snapper, cubera snapper, hogfish, jacks (lesser amberjack, almaco jack, and banded rudderfish), and royal red shrimp.

For stocks for which an ACL would be set through this rulemaking, none are currently overfished, in a rebuilding plan, or undergoing overfishing.

The Generic ACL Amendment retains Federal management for, and keeps within their respective fishery management units, several species that do not have specifically codified ACLs and AMs. These species are red drum, goliath grouper, and corals (excluding

octocorals). Harvesting these species is currently prohibited in Gulf Federal waters, and they therefore have a functional ACL of zero. Additionally, the harvest prohibition serves as a functional AM to manage the ACL.

Comments and Responses

NMFS received nine comment letters on the Generic ACL Amendment and the proposed rule. Comments were received from both individuals and organizations. Additionally, two submissions were from Federal agencies indicating they had no comment. Comments related to the actions contained in the amendment or the proposed rule are summarized and responded to below.

Comment 1: The criteria for removing reef fish species using average annual landings of 15,000 lb (6,804 kg) or less is inadequate, and the list of species that meet this criterion has not been fully analyzed. Insufficient information is presented in the Generic ACL Amendment regarding overall catch and effort, life history, species vulnerability, species location, landings relative to population size, and any population status indicator information. The Council should have considered the vulnerability of the various stocks, as has been done for Pacific coast groundfish. The analysis should include susceptibility to the fishery and species productivity. In addition, the amendment failed to conduct a vigorous analysis regarding the composition and grouping of stocks in the Reef Fish FMP, which would have been more beneficial than this attempt to remove species. The Council and NMFS should work to revise the Reef Fish FMP in the future with more detailed analyses of the status and vulnerability of species and species complexes.

Response: The criteria for species removal included more than just an evaluation of landings. In determining which species to remove, the Council and NMFS considered landings data, trends in landings, and landings history, as well as life history parameters, management uncertainty and scientific vulnerability, as it is known for each species. All the related factors are discussed in sections 2.1, and 2.2 of the Generic ACL Amendment, and are thoroughly analyzed throughout the amendment. Several species, initially considered for removal, were retained in the Reef Fish FMP for these reasons. National Standard guidelines state that the principle implicit in National Standard 7 is that not every fishery needs Federal regulation. The Magnuson-Stevens Act requires Councils to prepare FMPs only for overfished fisheries and for other fisheries where regulation would serve some useful purpose and where the present or future benefits of Federal regulation would justify the costs. The Council concluded, and NMFS agrees, that continued inclusion of these species in the Reef Fish FMP is unnecessary. There is no apparent need to improve the condition of the stock, resolve competing interests, or produce a more efficient utilization of these resources. No management measures have ever applied to harvest of these species, other than certain aggregate bag limits and aggregate commercial trip limits.

The species removed from the Reef Fish FMP are landed in very low numbers, thus they are either not targeted or are not particularly susceptible to the fishery. These species represent less than one percent of the total reef fish landings, and trends in landing histories did not indicate any changes over time. This, in addition to the other factors addressed in the amendment, indicated to the Council that Federal conservation and management measures were not currently necessary for these species. Further, the Council determined, and NMFS agrees, that defining ACLs on such small landings values would not provide meaningful management benchmarks. The Council has indicated that it will continue to evaluate landings and other available information on species removed from the Reef Fish FMP at least every 5 years, and if it is determined a removed species is in need of management, the species would be added back into the fishery management unit. NMFS and the Council recognize that management needs change over time, and are committed to continued monitoring of Gulf fishery resources.

Comment 2: Removing species creates potential management gaps that could allow fishing pressure to go unchecked. Retaining these species would allow the Council to take more timely action before issues become a crisis. Removal of the species without strong justification is not consistent with the requirements of the Magnuson-Stevens Act. The Magnuson-Stevens Act requires Councils to manage fish stocks to prevent overfishing and rebuild overfished stocks. The purpose of this requirement is to conserve and manage these resources, not remove them from the ability to conserve and manage them. Trends in landings still need to be monitored to detect any shifts in harvest.

Response: It is highly unlikely that additional fisheries will develop to target and harvest these removed species and other species not included in the management unit for the Reef Fish FMP. These species have been in the management unit since 1986, without any specific Federal regulations, other than their inclusion in certain aggregate bag limits and part of any aggregate commercial trip limits. The Council's Scientific and Statistical Committee (SSC) noted that the species were originally placed in the Reef Fish FMP to ensure that they would be included in any monitoring programs, rather than because they were considered to be in need of Federal management. Data on catches of these species have been collected over that time period. Based on those available data, the Council concluded, and NMFS agrees, the landings trends for these species do not reflect any changes over time. In light of this fact, and the consideration of the other factors addressed in the amendment, the species could be removed from the management unit, consistent with the requirements of the Magnuson-Stevens Act. Species that are removed by this final rule will continue to have their commercial and recreational landings monitored through standard record-keeping requirements of the Marine Recreational Information Program (MRIP) and commercial trip ticket records. Should a change in landings be noted, or other indications of a need for conservation and management arise, the Council could develop a plan amendment to add the species back into the management unit.

Comment 3: Several species (*e.g.,* red porgy, white grunt, black sea bass) have not been considered for inclusion in the Reef Fish FMP.

Response: In setting ACLs for all species subject to the Reef Fish FMP, the Council did not explicitly consider adding new species to the management unit. Additional species can always be considered for inclusion as part of a fishery management unit in an FMP, should landings data indicate Federal management is needed, but this action was not considered as part of the Generic ACL Amendment. As to the species specifically noted, the Council removed all porgies, grunts, and sea basses (except the dwarf sand perches) from the fishery management unit in 1998 (December 30, 1997, 62 FR 67714), based on a similar determination that Federal management of the species was not required. The Council's Reef Fish Advisory Panel has recommended that red porgy be included in an IFQ program to be developed by the Council. Should such an IFQ program be

developed, then red porgy would be added to the Reef Fish FMP at that time.

Comment 4: The ABC control rule is an overall significant step in the right direction. There are, nonetheless, aspects of the ABC control rule in need of improvement. During the process of applying the ABC control rule to various species and species groups, it became clear that the tiering system needs modification. In addition, the ABC control rule fails to adequately account for discard mortality in unassessed stocks. The Council and NMFS should explore alternative methodologies such as ''management strategy evaluation'' techniques or other data-poor methodologies such as ''depletion-corrected average catch'' and ''depletion-based stock reduction analyses''. The Council and NMFS need to address these shortcomings to improve the ABC control rule.

Response: The Council and the SSC are aware of the potential issues with the ABC control rule and the claims that it would benefit from modification and improvement. The SSC has already made plans to begin addressing these issues in 2012. The Council, the SSC, and NMFS all recognize that establishing and maintaining ACLs and AMs for the various fisheries will continue to evolve as new information becomes available.

Comment 5: The Council does not currently have a risk policy in place for guiding its choice of desired probabilities of overfishing. The Council needs the results of a risk analysis that considers short-term and long-term costs and benefits to the resource and the fishing community in regard to fishing at various levels. We urge NMFS to invest the resources needed to develop appropriate techniques that will provide adequate risk analyses.

Response: The Council's ABC control rule explicitly addresses the probability of overfishing within each tier. In addition, the Council instructed the SSC to provide ABCs based on a risk of overfishing of between 15 and 45 percent. In most cases, the SSC has been more risk adverse than the upper limit. The Council, the SSC, and NMFS all recognize that this process will continue to be improved over time as new information becomes available. This final rule to implement ACLs and AMs is part of an ongoing process to improve the overall management strategy for Gulf federally managed species.

Comment 6: The ACL/annual catch target (ACT) control rule does not account for management uncertainty from unknown bycatch amounts. The management uncertainty buffer is based on an arbitrary scaling. The size of the buffer is determined by an arbitrary scale, with a maximum of 25 percent. The control rule needs to be improved by scaling the maximum size of the buffer by the frequency and magnitude of overages, rather than by an arbitrary scale.

Response: NMFS disagrees that the scaling of the uncertainty buffer in the ACL/ACT control rule is arbitrary. The Council rejected more simplified control rules because they were overly prescriptive and did not allow adequate input by the SSC. The ACL/ACT control rule selected by the Council and the SSC is the result of an iterative adaptive process, in which earlier versions of the control rule were developed, evaluated, and in some cases applied to actual stocks, and modified based on the results. The control rule management process is adaptive and ongoing and is based on the best scientific judgment of the SSC following accepted scientific procedures. The control rule varies the size of the uncertainty buffer based on frequency of overages, precision of available recreational and commercial data, timeliness of reporting, and stock status (if known). The Gulf Council may increase or decrease the ACL or ACT based on additional information or their expert opinion, except that the ACT cannot exceed the ACL and the ACL cannot exceed the ABC.

The framework procedures implemented through this final rule provide a means by which the control rule can be modified as improvements are identified and incorporated. As with the ABC control rule, the Council intends to continue to develop and modify the ACL/ACT control rule as better information becomes available.

Comment 7: The generic framework procedures should specifically state that all analyses and procedures required under other applicable law must still be undertaken for framework actions.

Response: The framework procedures do specifically identify the need for consistency with other applicable law. Under Step 6, the framework notes that for all framework action requests, the NMFS Regional Administrator will review the Council's recommendations and supporting information and notify the Council of the determinations, in accordance with the Magnuson-Stevens Act and other applicable law.

Comment 8: The National Standard 1 (NS1) guidelines recommend accounting for management uncertainty with the use of ACTs to maintain catch at or below the ACL so that overfishing does not occur. The ACT, in conjunction with AMs, is intended to capture management uncertainty in the fisheries. The Council has elected to account for management uncertainty by setting ACTs that are only minimally reduced from the ACL (ABC) level. No specific management measures are proposed that would maintain catch levels for any of the species within the Generic ACL Amendment at the ACT level. Under this scenario, the ACT has no specific function as a management target. There is a limited capacity to monitor fisheries in a timely fashion to close them when ACLs are projected to be exceeded. There are significant lag times present in the data reporting for both recreational and commercial fisheries. If an ACL is exceeded, it would be better to have post-season AMs that enable catch reductions by the amount necessary to maintain catches at the ACT level the following year.

Response: Most ACTs for reef fish are set 15 to 20 percent lower than the ACL; more importantly, the ACTs are set 35 percent or more lower than the overfishing limit (OFL). Management measures are generally tailored to achieve the ACT, and NMFS intends for harvest to remain between this target and the ACL threshold. With respect to reducing catches the following year for overages, the Council determined that this was not needed because none of the reef fish stocks are overfished or under a rebuilding plan. Rather, the AMs selected provide for in-season monitoring and closures before an ACL is exceeded for some species, and an adjustment in the following year for other species.

Comment 9: In-season monitoring for vermilion snapper, based on delayed and preliminary data, may not sufficiently or accurately project when ACLs might be met or exceeded. A post-season AM that reduces the fishing season to the ACT level for vermilion snapper would provide the Council and NMFS with a very important and useful tool to maintain catch levels within the ACL. The Council should consider revising its AMs to better address keeping harvests levels below the designated ACLs, and apply these procedures consistently across all reef fish species, even the ones that already have ACLs and AMs (e.g. gag).

Response: If an established ACL has been reached, the Regional Administrator has the authority to initiate a harvest closure for a species to prevent the ACL from being exceeded. A procedure is in place, in accordance with NS1 guidance to re-evaluate the ACL if it is exceeded more than once during a 4-year period. ACLs and AMs were established previously for red snapper, gray triggerfish, greater amberjack, gag grouper, and red grouper. The mechanisms controlling

harvest differ among these species, but all were established following NS1 guidance. NMFS has determined adequate landings monitoring is in place and has the ability to enact in-season closures, which in some cases, are preferred to post-season AMs as a method to prevent overages. The Council's choice for AMs includes in-season monitoring for vermilion snapper and a closure of all harvest before the ACL is projected to be met. For all other reef fish species, the Council chose to have AMs address any ACL overages the following fishing year. For the Generic ACL Amendment, that AM would rely on in-season monitoring, as with vermilion snapper. However, the Council is not precluded from taking additional action the following fishing year, such as setting a restricted season or placing other harvesting restrictions on the fishery. The Council can revisit all species it manages at any time if it is determined revisions to harvesting controls are necessary.

Comment 10: NMFS should analyze the risks of stock group management and review the appropriateness of proposed stock groups in light of the proposed species removals and modifications made to initially propose stock groups to accommodate the IFQ program.

Response: NMFS believes these risks and the appropriateness of stock group management were adequately reviewed in the Generic ACL Amendment and its associated analysis. Although ecosystem-based or single-species ACLs may be desirable for many species, stock groups provide a solution for setting ACLs for species lacking stock specific information. In establishing stock groups, the Council considered the geographic and depth distribution of species, life history characteristics, exploitation patterns, and vulnerabilities. The considerations and conclusions for remaining stocks are unaffected by the removal of species from the FMU. The species removed through this final rule from the IFQ stock complexes are not expected to alter the appropriateness of the remaining species contained within the revised IFQ stock complexes. As noted, the Council has the opportunity to make changes in its management strategy at any time, as new information and understanding of species relationships and complexes arises.

Comment 11: The Generic ACL Amendment does not define stock status determination criteria (SSDC) for unassessed reef fish species. NMFS disapproved the Council's proposed SSDCs from the Generic Sustainable Fisheries Act Amendment (May 19, 2000, 65 FR 31831). No definitions of maximum sustainable yield (MSY), OY, or minimum stock size threshold (MSST) exist for unassessed reef fish stocks. Without these criteria, the Council and NMFS are not able to detect if a stock or stock group is overfished. ACLs are intended to prevent overfishing and rebuild overfished stocks, but without SSDCs, it is not possible to measure if this goal is being attained. In addition, the amendment fails to provide a definition of OY; thus it is not possible for the Council to determine if it achieving that goal as well.

Response: Although some SSDCs have not been defined for unassessed reef fish stocks, the MSA requires that we establish ACLs for these stocks, and the Council has done so in this rule based on the best scientific information available. The Council and NMFS recognize that OFLs, ABCs, and ACLs in this amendment have been established utilizing different methodologies than utilized to set many SSDCs in past, but these methods for unassessed stocks are still based on the best scientific information available, and are appropriate for the stocks at issue. In the instances where requisite SSDCs have not been approved, the OFL, ABC, and ACL values contained in the generic amendment will serve as proxies for those SSDCs until other adequate SSDCs have been submitted by the Council and approved by NMFS. The Council and NMFS intend to revisit these criteria to establish SSDCs that are equivalent and compatible with the ACLs and OFLs when the revised MRIP information becomes available. Until these revisions occur, NMFS will make overfishing determinations based on the OFLs, as provided for in the Generic ACL Amendment.

Comment 12: Setting ACLs on data-poor species using historical landings data from the Marine Recreational Fisheries Statistics Survey (MRFSS) is inappropriate. Setting ACLs and implementing AMs based on this information is inappropriate and AMs should not be implemented until a more reliable data collection system is developed and implemented.

Response: The data available has been determined to be the best scientific information available by the Southeast Fisheries Science Center and the Council's SSC, which determined which data were to be used in developing ACLs. Further, a number of Federal courts have agreed that the MRFSS data constitute the best scientific information available, and therefore must be used in managing fisheries. NMFS is currently implementing the new MRIP, which has modified the methods used to monitor recreational catch and effort. Information from this newly revised program will be available in 2012. When these data become available, the Council may need to revise its current management strategies of ACLs and AMs.

Comment 13: ACLs do not need to be set on red drum or shrimp species. Red drum is managed successfully by the states, and an ACL is not needed. Shrimp only live 2 years and populations are affected by other variables more than catch.

Response: The Magnuson-Stevens Act requires the Council to establish ACLs for all species it manages. The only applicable exceptions are annual species and any stocks considered to be ecosystem stocks. The Council already prohibits the harvest of red drum in Federal waters; this rule reinforces that current harvest prohibition and equates it to an ACL of zero. This does not affect the harvest of these species in state waters, or how states may variably manage red drum in their respective state waters.

For shrimp, the Generic ACL Amendment and this final rule only establishes a commercial ACL for royal red shrimp, which is the only federally managed shrimp species that has an extended life span. Other shrimp species, such as brown, pink, and white shrimp are considered annual crops, and are thus exempt from the ACL requirements.

Changes From the Proposed Rule

The regulatory references within the codified text for the definitions section and for the IFQ program for Gulf groupers and tilefishes were revised. The introductory paragraph in § 622.20 has been revised through this final rule and NMFS has identified that the regulatory citations in that introductory paragraph in the proposed rule for DWG and SWG were incorrect. The regulatory citation within the IFQ program for Gulf groupers and tilefishes for DWG was revised from § 622.20 (b)(2)(vi) to § 622.20 (a)(7) and for SWG from § 622.20 (b)(2)(v) to § 622.20 (a)(6). Additionally, within § 622.2, Definitions and Acronyms, the definitions for DWG and SWG have been revised to reflect the correct regulatory citations within the introductory paragraph of § 622.20 (a).

Classification

The Regional Administrator, Southeast Region, NMFS has determined that this final rule is necessary for the conservation and

management of the species within the Generic ACL Amendment and is consistent with the Magnuson-Stevens Act, and other applicable law.

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

As required by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), NMFS prepared a final regulatory flexibility analysis (FRFA) for this action. The FRFA incorporates the initial regulatory flexibility analysis (IRFA), a summary of the significant economic issues raised by public comments, NMFS' responses to those comments, and a summary of the analyses completed to support the action. No public comments specific to the IRFA were received and therefore no public comments are addressed in the following FRFA.

NMFS agrees with the Council's choice of preferred alternatives as those which would be expected to best achieve the Council's objectives while minimizing, to the extent practicable, the adverse effects on fishers, support industries, and associated communities. The preambles of the proposed rule and this rule provide a summary of the actions contained within this rule and is not repeated here.

The purpose of this rule, pursuant to the Magnuson-Stevens Act and the National Standard 1 guidelines, is to establish the methods for implementing ACLs, AMs and associated parameters for stocks managed by the Gulf Council, along with initial specifications of an ACL that may be changed under the framework procedures for specifying an ACL. Additionally, this rule is intended to improve management capability to prevent or end overfishing and to maintain stocks at healthy levels, and to do so in a consistent and structured manner across all FMPs.

The Magnuson-Stevens Act provides the statutory basis for this rule.

The rule would not establish any new reporting, record-keeping or compliance requirements. The AMs may constitute a new compliance requirement and were analyzed in the IRFA. No duplicative, overlapping, or conflicting Federal rules have been identified for this rule. Management of certain species affected by this rule was developed with explicit consideration of applicable rules in the state of Florida and the South Atlantic Council.

The rule is expected to directly affect commercial harvesting and for-hire fishing vessels that harvest reef fish, royal red shrimp, red drum, or octocorals in the Gulf. It should be noted that harvest and possession of red drum in the Gulf EEZ is currently prohibited. The Small Business Administration 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, all the above qualifiers apply except that the annual receipts threshold is $7.0 million (NAICS code 713990, recreational industries).

In 2009, there were 999 vessels with Gulf commercial reef fish permits and 430 vessels with Gulf royal red shrimp permits. There is no entity possessing a Federal permit for harvesting red drum or octocorals in the Gulf EEZ. Based on home states, as reported in Federal permit applications, vessels with commercial reef fish permits were distributed as follows: 37 vessels in Alabama, 814 vessels in Florida, 48 vessels in Louisiana, 15 vessels in Mississippi, 77 vessels in Texas, and 8 vessels in other states. The corresponding distribution of vessels with royal red shrimp permits is as follows: 57 vessels in Alabama, 65 vessels in Florida, 88 vessels in Louisiana, 25 vessels in Mississippi, 152 vessels in Texas, and 43 vessels in other states. In 2008 and 2009, the maximum annual commercial fishing revenue by an individual vessel with a commercial Gulf reef fish permit was approximately $606,000 (2008 dollars). The maximum revenue by an individual vessel in the royal red shrimp or coral fisheries was far less than $606,000.

The for-hire fleet is comprised of charterboats, which charge a fee on a vessel basis, and headboats, which charge a fee on an individual angler (head) basis. In 2009, there were 1,419 for-hire vessels that were permitted to operate in the Gulf reef fish fishery. These vessels were distributed as follows: 141 vessels in Alabama, 876 vessels in Florida, 100 vessels in Louisiana, 52 vessels in Mississippi, 232 vessels in Texas, and 18 vessels in other states. The for-hire permit does not distinguish between headboats and charter boats, but in 2009 the headboat survey program included 79 headboats. The majority of headboats were located in Florida (43), followed by Texas (22), Alabama (10), and Louisiana (4). The average charterboat is estimated to earn approximately $88,000 (2008 dollars) in annual revenues, while the average headboat is estimated to earn approximately $461,000 (2008 dollars).

Based on the foregoing revenue estimates, all commercial and for-hire vessels expected to be directly affected by this rule are determined for the purpose of this analysis to be small business entities. Some fleet activity (i.e., multiple vessels owned by a single entity) may exist in the for-hire sector but its extent is unknown, and all vessels are treated as independent entities in this analysis.

Because all entities expected to be directly affected by this rule are small business entities, no disproportionate effects on small entities relative to large entities are expected because of this rule.

Removing octocorals from the Coral and Coral Reefs FMP is mainly administrative in nature and would have no direct effects on the profitability of small business entities. Removing Nassau grouper from the Reef Fish FMP, with eventual management of the species being assumed by the South Atlantic Council, has no direct effects on the profits of small entities, given the current prohibition on the harvest of this species. Removing species from the Reef Fish FMP which have average annual landings of 15,000 lb (6,804 kg) or less (except those misidentified as another species or those exhibiting a trend in landings that may indicate a change is status), or those mainly harvested in state waters, such as anchor tilefish, blackline tilefish, red hind, rock hind, misty grouper, schoolmaster, dog snapper, mahogany snapper, sand perch, and dwarf sand fish, will not directly change the current harvest or use of a resource, and therefore will not affect the profitability of small entities. Similarly, rearranging species into species groupings will not directly change the current harvest or use of a resource, and therefore will not affect the profitability of small entities.

The establishment of an ABC control rule is not anticipated to directly affect the harvest and other typical uses of the resource since this action is administrative in nature. As such, this management action is not expected to result in any direct effects on the profits of small entities.

The establishment of an ACL/ACT control rule is an administrative action and will not affect the harvest and other customary uses of the resource. Therefore, this action has no direct consequence on the profitability of small entities.

Modifications to the framework procedure are also administrative in nature. Since these modifications will not affect the harvest and other

customary uses of the resource, they would have no direct consequence on the profitability of small entities.

Any management actions enacted through the modified framework procedure will be evaluated as to their effects on the profits of small entities at the time of their implementation. Initial ACL specification for royal red shrimp will set the ACL for the species at 334,000 lb tails (151,500 kg) which is significantly above the historical landings (138,116 lb (62,648 kg) in 2008). This action, therefore, will not affect harvests and profits of small entities in the foreseeable future.

Apportioning black grouper between the Gulf and South Atlantic Council's jurisdictional areas will result in an increase of profits (producer surplus) to the commercial sector ranging from approximately $90,000 to $113,000 annually for all vessels combined. The effects on for-hire profits are expected to be positive but cannot be quantified with available information. The apportionment of yellowtail snapper between the Gulf and South Atlantic Council's jurisdictional areas is very close to the recent landings ratio of the species between the two jurisdictional areas. Thus, this management action is expected to have minimal effects on the profits of small entities in both areas.

The apportionment of mutton snapper between the Gulf and South Atlantic Council's jurisdictional areas will favor the Gulf fishing fleet and thus will be expected to increase the profits of the Gulf fishing fleet. The effects on the profits of the South Atlantic fishing fleet will, in turn, decrease. In the absence of sufficient information to quantify the effects of this action, its net effects on the fishing fleets of both areas cannot be determined.

The apportionment of black grouper in the Gulf between the commercial and recreational sectors will tend to favor the commercial over the recreational sector. In this sense, the commercial sector is expected to experience profit increases ranging from approximately $11,000 to $14,000 annually for all vessels combined. The negative effects on the for-hire fleet cannot be estimated with available information.

Potential effects on small entities anticipated from the implementation of ACLs and/or ACTs for reef fish stocks and stock groupings will depend on the extent to which the ACLs and ACTs being implemented will affect the harvest or other customary uses of the resource. Aggregate ACLs and ACTs are specified for both the commercial and recreational sectors and together with the specific ACLs and ACTS set for the commercial sector, will allow for increased harvest levels for both sectors. Therefore, positive effects on the profits of small entities are expected to result from this action in the near future.

Specifying in-season AMs for vermilion snapper when the ACL is reached or projected to be reached within the fishing year will result in short-term negative effects on the profits of small entities. The expectation, however, over the medium and long-term is for profits of these small entities to increase or at least not be further impaired due to increased protection for the stock. Implementing AMs for royal red shrimp and other reef fish species that do not currently have AMs enacted the following year after their ACLs are exceeded will negatively affect the short-term profits of small entities. Again, the expectation is for this action to improve medium and long-term profitability.

Three alternatives, including the preferred alternative, were considered for the management of octocorals. The first alternative, the no action alternative, would retain the management of species under the Gulf Coral and Coral Reefs FMP. The second alternative would remove the species from the FMP, with eventual management of the species being the responsibility of the South Atlantic Council. Similar to the preferred alternative of removing octocorals from the Coral and Coral Reefs FMP, these two other alternatives will have no direct effects on the profits of small entities. The second alternative would mainly entail additional administrative cost on the part of the South Atlantic Council.

Three alternatives, including the preferred alternative, were considered for the management of Nassau grouper. The first alternative, the no action alternative, would retain the management of the species under the Gulf Reef Fish FMP. The second alternative would remove the species from the FMP, with eventual management of the species being the responsibility of the South Atlantic Council. Similar to the preferred alternative of removing Nassau grouper from the Reef Fish FMP, these two other alternatives would have no direct effects on the profits of small entities. The second alternative would mainly entail additional administrative cost on the part of the South Atlantic Council.

Four alternatives, including the preferred alternative, were considered for the management of yellowtail snapper. The first alternative would remove the species from the Gulf Reef Fish FMP. The second alternative would remove the species from the FMP, with eventual management of the species being the responsibility of the South Atlantic Council. The third alternative would add the species to a joint plan with the South Atlantic Council. Similar to the preferred no action alternative, these three other alternatives would have no effects on the profits of small entities. The second alternative would mainly entail additional administrative cost on the part of the South Atlantic Council.

Four alternatives, including the preferred alternative, were considered for the management of mutton snapper. The first alternative would remove the species from the Gulf Reef Fish FMP. The second alternative would remove the species from the FMP, with eventual management of the species being the responsibility of the South Atlantic Council. The third alternative would add the species to a joint plan with the South Atlantic Council. Similar to the preferred no action alternative, these three other alternatives would have no direct effects on the profits of small entities. The second alternative would mainly entail additional administrative cost on the part of the South Atlantic Council while the third alternative would entail additional administrative costs on both Councils.

Five alternatives, of which two are the preferred alternatives, were considered for removing stocks from the Reef Fish FMP. The first alternative, the no action alternative, would not remove any species from Gulf Reef Fish FMP. This alternative would have no direct effects on the short-term profitability of small entities, but over time this is more likely to result in profit reduction than the preferred alternative when certain species with historically low landings become subject to restrictive measures. The second alternative would remove species with average landings of 100,000 lb (45,359 kg) or below from the Reef Fish FMP, except for species that are long-lived, may be misidentified as another species, or have trends in landings that may indicate a change in status. This alternative would have no direct short-term effects on profits of small entities, but with a relatively high historical landings threshold certain species may not be well protected for long-term sustainability. This alternative could then eventually lead to lower harvest and lower profits to small entities over time. The third alternative would remove species from the Reef Fish FMP if Federal waters are at the edge of the species distribution. This alternative would not directly affect the profitability of small entities, and could possibly have similar long-term effects as the preferred alternative.

Five alternatives, of which two with one sub-alternative are the preferred alternatives, were considered for species groupings. The first alternative, the no action alternative, would maintain the current species groupings. This alternative would have no direct short-term economic effects on small entities. The second alternative would revise the species groupings by adding groupings when life history and landings data may be too sparse to set individual catch limits. Although this alternative would have no direct consequence on the economic status of small entities, it would provide for a greater number of groupings. The third alternative would use species groupings based on NMFS analysis, which uses fishery-dependent data from multiple sectors over multiple years, and life history data when available, to create complexes and sub-complexes. This alternative would have no direct effects on the economic status of small entities, but it would provide for more groupings than the preferred alternative. In addition to these alternatives, two other sub-alternatives were considered regarding the selection of an indicator species within each grouping, noting that the preferred sub-option is not to use any indicator species. The first sub-option is to use as an indicator species the most vulnerable stock in the group based on productivity-susceptibility analysis. This sub-option would likely result in more restrictive environment that would condition the implementation of ACLs and other management measures. The second sub-option would use the assessed species as an indicator species. This sub-option has similar effects as the first sub-option but it would be relatively less constrictive.

Three alternatives, including the preferred alternative, were considered for the ABC control rule. The first alternative, the no action alternative, would not specify an ABC control rule. This alternative would have no immediate effects on the economic status of small entities, but it may not comply with the Magnuson-Stevens Act National Standard 1 guidelines, which require Councils to establish an acceptable ABC control rule. The second alternative would adopt an ABC control rule fixing the buffer between the overfishing limit and ABC at a level such that ABC is equal to 75 percent of the overfishing limit or ABC is equal to the yield at 75 percent of F_{MSY} (fishing mortality at maximum sustainable yield). Although this alternative is simpler than the preferred alternative, it lacks the stock specificity contained in the preferred alternative.

Five alternatives, including the preferred alternative, were considered for the ACL/ACT control rule. The first alternative, the no action alternative, would not establish an ACL/ACT control rule. The second alternative would establish an initial estimate of ACL/ACT based upon a flow chart method that reviews data availability, data timeliness, and data quality to develop the ACT buffer percentage, and followed by a review by the Council's Socioeconomic Panel. This alternative would have economic effects similar to the preferred alternative, but it would produce a less conservative buffer when comparing stock complexes or stocks with high dead discard levels. Therefore, this alternative may result in less adverse economic impacts in the short-term than the preferred alternative. The third alternative would set the buffer between ACL and ACT at a fixed percentage: 25 percent for all sectors; 0 percent for IFQ fisheries and 25 percent for all other sectors; or 2 percent for IFQ fisheries and 25 percent for all other sectors, and will be followed by a review by the Council's Socioeconomic Panel. This alternative may result in lower economic benefits than the preferred alternative, because it would establish control rules that may not take account of stock specificity. The fourth alternative would set the buffer between ACL and ACT at a fixed percentage of 0 percent, 10 percent, 15 percent, or 25 percent, followed by a review by the Council's Socioeconomic Panel. This alternative has about the same economic implications as the third alternative, except possibly when dealing with IFQ species, so that it would also tend to provide lower economic benefits than the preferred alternative.

Four alternatives, including the preferred alternative, were considered for the generic framework procedures. The first alternative, the no action alternative, would retain the current framework procedures for implementing management measures. The second alternative would add modifications that would make the framework procedures broader than the preferred alternative while the third alternative would make the framework procedures narrower than the preferred alternative. Similar to the preferred alternative, these three other alternatives would have no direct economic effects on small entities.

Three alternatives, including the preferred alternative, were considered for specifying ACL for royal red shrimp. The first alternative, the no action alternative, would not set an ACL for the species. This alternative is the least likely to affect the profits of small entities, but it would not meet the legal requirements for establishing an ACL by 2011. The second alternative would set an ACL for the species based on average landings from 1962–2008 (141,379 lb (64,128 kg) of tails), from the last 5 years (191,860 lb (87,026 kg) of tails), or from the last 10 years (233,182 lb (105,770 kg) of tails). This alternative would likely result in a harvest reduction and profit reduction as well, except when the ACL is set at the highest of the three sub-options. Other sub-options would set the ACL equal to 75 percent of ABC (250,500 lb (113,625 kg)) or set the ACL corresponding to the ACL/ACT control rule. These sub-options would be unlikely to result in short-term profit reductions, although they are more restrictive than the preferred alternative/sub-alternative, because these sub-options would provide for ACLs that are much higher than historical landings.

Three alternatives, including the preferred alternative, were considered for establishing the Gulf portion of the jurisdictional apportionment of the black grouper ABC, as agreed upon by both councils. The first alternative, the no action alternative, would not apportion the species ABC between the Gulf and South Atlantic Councils. This alternative would tend to maintain the distribution of landings and potentially the economic benefits between the Gulf and South Atlantic fishing fleets. The second alternative would evenly apportion the species' ABC between the Gulf and South Atlantic Councils. The effects of this alternative on small entities would be lower profits than the preferred alternative.

Four alternatives, including the preferred alternative, were considered for establishing the Gulf portion of the jurisdictional apportionment of the yellowtail snapper ABC, as agreed upon by both councils. The first alternative, the no action alternative, would not apportion the species ABC between the Gulf and South Atlantic Councils. This alternative would tend to maintain the distribution of landings and potentially the economic benefits between the Gulf and South Atlantic fishing fleets. The second alternative would apportion 73 percent of the species ABC to the South Atlantic Council and 27 percent to the Gulf Council. This alternative would potentially yield higher profits to the Gulf fishing fleet than the preferred alternative, but the difference in the profit outcome of the two alternatives would be relatively small. The third alternative would apportion 77 percent to the South Atlantic Council and 23 percent to the Gulf Council. This

alternative would result in lower profits to the Gulf fishing fleet than the preferred alternative, although the difference in profit outcome between the two alternatives would be relatively small.

Three alternatives, including the preferred alternative, were considered for establishing the Gulf portion of the jurisdictional apportionment of the mutton snapper ABC, as agreed upon by both councils. The first alternative, the no action alternative, would not apportion the species ABC between the Gulf and South Atlantic Councils. This alternative would tend to maintain the distribution of landings and potentially economic benefits between the Gulf and South Atlantic fishing fleets. The second alternative would apportion 79 percent of the species' ABC to the South Atlantic Council and 21 percent to the Gulf Council. This alternative would result in lower profits to Gulf fishing fleet than the preferred alternative, although the difference in profit outcome between the two alternatives would be relatively small.

Four alternatives, including the preferred alternative, were considered for the sector allocation of black grouper. The first alternative, the no action alternative, would not establish sector allocation of the species. This alternative would tend to maintain the distribution of landings and potentially economic benefits between the commercial and recreational sectors. The second alternative would allocate 18 percent of the species' ACL to the recreational sector and 82 percent to the commercial sector. This alternative would result in higher profit increases to the commercial sector than the preferred alternative. However, it would also result in lower profits for the for-hire fleet. The net effects of this alternative cannot be estimated with available information. The third alternative would allocate 24 percent of the species ACL to the recreational sector and 76 percent to the commercial sector. This alternative would provide slightly higher profitability to the commercial sector and lower profitability to the for-hire sector than the preferred alternative. The net effects of this alternative cannot be estimated with available information.

Three alternatives, including the preferred alternative, and two sub-options, one of which is the preferred sub-option, were considered for specifying ACLs/ACTs for reef fish stocks and stock groupings. The first alternative, the no action alternative, would not set an annual ACL/ACT for stocks or stock groups, but this would not meet the legal requirements for establishing an ACL by 2011. The second alternative would set a 10 percent buffer between the ABC and ACL or between the ACL and ACT if ACL is equal to ABC. This alternative would likely result in lower profits to small entities than the preferred alternative. The second sub-option would set the ABC equal to the value specified in the ACL/ACT control rule, with the ACT not being used unless specified otherwise by the Council. This alternative would likely result in profits to small entities that would be equal to or less than those of the preferred alternative.

Four alternatives, of which two are the preferred alternatives, and five sub-options, of which two are the preferred sub-options, were considered for AMs. The first alternative, the no action alternative, would not create new AMs for reef fish and royal red shrimp. This alternative would likely result in higher profits for small entities than the preferred alternative, but it would not be consistent with the legal requirement that NMFS establish AMs for stocks managed by the Council. The second alternative would implement only post-season AMs for stocks and sectors that do not currently have AMs, should the ACL for a year be exceeded. This alternative would likely result in larger profit reductions in the short-term than the preferred alternative due to possibly more restrictive corrective actions being implemented to address ACL overages. The first sub-option would set the trigger for post-season AMs if the average landings for the past 3 years exceed the ACL. This sub-option would likely result in lower short-term profit reductions than the preferred alternative, although over time it would result in larger profit reductions due to more restrictive actions to remedy the overages. The second sub-option would set the trigger for post-season AMs if average landings for the past 5 years, after excluding the highest and lowest values, exceed the ACL. This alternative would have nearly similar effects as the second alternative. The third sub-option would provide for an overage adjustment if the ACL for the stock or sector is exceeded and the stock is under a rebuilding plan. The amount of adjustment would equal the full amount of the overage, unless the best scientific information shows a lesser amount is needed to mitigate the effects of exceeding the ACL. This sub-option would result in larger profit reductions in the short-term than the preferred alternative due to harvest reductions that would be implemented to mitigate the overages.

List of Subjects in 50 CFR Part 622

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

Dated: December 20, 2011.

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 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.*

§ 622.1 [Amended]

■ 2. In § 622.1, paragraph (b), in Table 1, remove the row titled, ''FMP for Coral and Coral Reefs of the Gulf of Mexico''.

■ 3. In § 622.2, the definitions for ''deep-water grouper (DWG)'' and ''shallow-water grouper (SWG)'' are revised to read as follows:

§ 622.2 Definitions and acronyms.

* * * * *

Deep-water grouper (DWG) means, in the Gulf, yellowedge grouper, warsaw grouper, snowy grouper, and speckled hind. In addition, for the purposes of the IFQ program for Gulf groupers and tilefishes in § 622.20, scamp are also included as DWG as specified in § 622.20(a)(7).

* * * * *

Shallow-water grouper (SWG) means, in the Gulf, gag, red grouper, black grouper, scamp, yellowfin grouper, and yellowmouth grouper. In addition, for the purposes of the IFQ program for Gulf groupers and tilefishes in § 622.20, speckled hind and warsaw grouper are also included as SWG as specified in § 622.20(a)(6).

* * * * *

■ 4. In § 622.3, paragraph (c) is revised to read as follows:

§ 622.3 Relation to other laws and regulations.

* * * * *

(c) For allowable octocoral, if a state has a catch, landing, or gear regulation that is more restrictive than a catch, landing, or gear regulation in this part, a person landing in such state allowable octocoral taken from the South Atlantic EEZ must comply with the more restrictive state regulation.

* * * * *

■ 5. In § 622.4, the first sentence of paragraph (a)(2)(ix) and paragraph (a)(3)(ii) are revised to read as follows:

§ 622.4 Permits and fees.

(a) * * *

(2) * * *

(ix) *Gulf IFQ vessel accounts.* For a person aboard a vessel, for which a commercial vessel permit for Gulf reef fish has been issued, to fish for, possess, or land Gulf red snapper or Gulf groupers (including DWG and SWG, as specified in § 622.20(a)) or tilefishes (including goldface tilefish, blueline tilefish, and tilefish), regardless of where harvested or possessed, a Gulf IFQ vessel account for the applicable species or species groups must have been established. * * *

* * * * *

(3) * * *

(ii) *Allowable octocoral.* For an individual to take or possess allowable octocoral in the South Atlantic EEZ, other than allowable octocoral that is landed in Florida, a Federal allowable octocoral permit must have been issued to the individual. Such permit must be available for inspection when the permitted activity is being conducted and when allowable octocoral is possessed, through landing ashore.

* * * * *

■ 6. In § 622.20, the first three sentences in paragraph (a) are revised to read as follows:

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

(a) *General.* This section establishes an IFQ program for the commercial components of the Gulf reef fish fishery for groupers (including DWG, red grouper, gag, and other SWG) and tilefishes (including goldface tilefish, blueline tilefish, and tilefish). For the purposes of this IFQ program, DWG includes yellowedge grouper, warsaw grouper, snowy grouper, speckled hind, and scamp, but only as specified in paragraph (a)(7) of this section. For the purposes of this IFQ program, other SWG includes black grouper, scamp, yellowfin grouper, yellowmouth grouper, warsaw grouper, and speckled hind, but only as specified in paragraph (a)(6) of this section. * * *

* * * * *

■ 7. In § 622.31, paragraphs (f) and (n) are revised to read as follows:

§ 622.31 Prohibited gear and methods.

* * * * *

(f) *Power-assisted tools.* A power-assisted tool may not be used in the Caribbean EEZ to take a Caribbean coral reef resource, in the Gulf EEZ to take prohibited coral or live rock, or in the South Atlantic EEZ to take allowable octocoral, prohibited coral, or live rock.

* * * * *

(n) Gulf reef fish may not be used as bait in any fishery, except that, when purchased from a fish processor, the filleted carcasses and offal of Gulf reef fish may be used as bait in trap fisheries for blue crab, stone crab, deep-water crab, and spiny lobster.

■ 8. In § 622.32, the first sentence of paragraph (b)(2)(iii) is revised to read as follows:

§ 622.32 Prohibited and limited-harvest species.

* * * * *

(b) * * *

(2) * * *

(iii) Red drum may not be harvested or possessed in or from the Gulf EEZ. * * *

* * * * *

■ 9. In § 622.34, the third sentence of paragraph (g)(1) is revised to read as follows:

§ 622.34 Gulf EEZ seasonal and/or area closures.

* * * * *

(g) * * *

(1) * * * The provisions of this paragraph do not apply to hogfish.

* * * * *

■ 10. In § 622.37, paragraph (d)(1)(iii) is revised to read as follows:

§ 622.37 Size limits.

* * * * *

(d) * * *

(1) * * *

(iii) Cubera, gray, and yellowtail snappers—12 inches (30.5 cm), TL.

* * * * *

■ 11. In § 622.39, the first sentence in paragraph (b)(1)(ii) and paragraph (b)(1)(v) are revised to read as follows:

§ 622.39 Bag and possession limits.

* * * * *

(b) * * *

(1) * * *

(ii) Groupers, combined, excluding goliath grouper—4 per person per day, but not to exceed 1 speckled hind or 1 warsaw grouper per vessel per day, or 2 gag per person per day. * * *

* * * * *

(v) Gulf reef fish, combined, excluding those specified in paragraphs (b)(1)(i) through (b)(1)(iv) and paragraphs (b)(1)(vi) through (b)(1)(vii) of this section—20.

* * * * *

■ 12. In § 622.42, paragraph (a)(1)(ii), the introductory text for paragraph (a)(1)(iii), paragraph (a)(1)(iii)(A), paragraph (a)(1)(iv), and paragraph (b) are revised to read as follows:

§ 622.42 Quotas.

(a) * * *

(1) * * *

(ii) Deep-water groupers (DWG) have a combined quota, as specified in paragraphs (a)(1)(ii)(A) through (E) of this section. These quotas are specified in gutted weight, that is eviscerated, but otherwise whole.

(A) For fishing year 2012—1.127 million lb (0.511 million kg).

(B) For fishing year 2013—1.118 million lb (0.507 million kg).

(C) For fishing year 2014—1.110 million lb (0.503 million kg).

(D) For fishing year 2015—1.101 million lb (0.499 million kg).

(E) For fishing year 2016 and subsequent fishing years—1.024 million lb (0.464 million kg).

(iii) Shallow-water groupers (SWG) have separate quotas for gag and red grouper and a combined quota for other shallow-water grouper (SWG) species (including black grouper, scamp, yellowfin grouper, and yellowmouth grouper), as specified in paragraphs (a)(1)(iii)(A) through (C) of this section. These quotas are specified in gutted weight, that is, eviscerated but otherwise whole.

(A) *Other SWG combined.* (*1*) For fishing year 2012—509,000 lb (230,879 kg).

(*2*) For fishing year 2013—518,000 lb (234,961 kg).

(*3*) For fishing year 2014—523,000 lb (237,229 kg).

(*4*) For fishing year 2015 and subsequent fishing years—525,000 lb (238,136 kg).

* * * * *

(iv) Tilefishes (including goldface tilefish, blueline tilefish, and tilefish)—582,000 lb (263,991 kg), gutted weight, that is, eviscerated but otherwise whole.

* * * * *

(b) *South Atlantic allowable octocoral.* The quota for all persons who harvest allowable octocoral in the EEZ of the South Atlantic is 50,000 colonies. A colony is a continuous group of coral polyps forming a single unit.

* * * * *

■ 13. In § 622.43, paragraph (a)(2) is revised to read as follows:

§ 622.43 Closures.

(a) * * *

(2) *South Atlantic allowable octocoral.* Allowable octocoral may not be harvested or possessed in the South Atlantic EEZ and the sale or purchase of

allowable octocoral in or from the South Atlantic EEZ is prohibited.

* * * * *

■ 14. In § 622.48, paragraphs (d), (e), (i), and (j) are revised, paragraphs (m), (n), and (o) are added and reserved, and paragraph (p) is added to read as follows:

§ 622.48 Adjustment of management measures.

* * * * *

(d) *Gulf reef fish.* For a species or species group: Reporting and monitoring requirements, permitting requirements, bag and possession limits (including a bag limit of zero), size limits, vessel trip limits, closed seasons or areas and reopenings, annual catch limits (ACLs), annual catch targets (ACTs), quotas (including a quota of zero), accountability measures (AMs), MSY (or proxy), OY, TAC, management parameters such as overfished and overfishing definitions, gear restrictions (ranging from regulation to complete prohibition), gear markings and identification, vessel markings and identification, allowable biological catch (ABC) and ABC control rules, rebuilding plans, sale and purchase restrictions, transfer at sea provisions, and restrictions relative to conditions of harvested fish (maintaining fish in whole condition, use as bait).

(e) *Gulf royal red shrimp.* Reporting and monitoring requirements, permitting requirements, size limits, vessel trip limits, closed seasons or areas and reopenings, annual catch limits (ACLs), annual catch targets (ACTs), quotas (including a quota of zero), accountability measures (AMs), MSY (or proxy), OY, TAC, management parameters such as overfished and overfishing definitions, gear restrictions (ranging from regulation to complete prohibition), gear markings and identification, vessel markings and identification, allowable biological catch (ABC) and ABC control rules, rebuilding plans, sale and purchase restrictions, transfer at sea provisions, and restrictions relative to conditions of harvested shrimp (maintaining shrimp in whole condition, use as bait).

* * * * *

(i) *Gulf shrimp.* For a species or species group: Reporting and monitoring requirements, permitting requirements, size limits, vessel trip limits, closed seasons or areas and reopenings, annual catch limits (ACLs), annual catch targets (ACTs), quotas (including a quota of zero), accountability measures (AMs), MSY (or proxy), OY, TAC, management parameters such as overfished and overfishing definitions, gear restrictions (ranging from regulation to complete prohibition), gear markings and identification, vessel markings and identification, allowable biological catch (ABC) and ABC control rules, rebuilding plans, sale and purchase restrictions, transfer at sea provisions, restrictions relative to conditions of harvested shrimp (maintaining shrimp in whole condition, use as bait), target effort and fishing mortality reduction levels, bycatch reduction criteria, BRD certification and decertification criteria, BRD testing protocol, certified BRDs, and BRD specification.

(j) *Gulf red drum.* Reporting and monitoring requirements, permitting requirements, bag and possession limits (including a bag limit of zero), size limits, vessel trip limits, closed seasons or areas and reopenings, annual catch limits (ACLs), annual catch targets (ACTs), quotas (including a quota of zero), accountability measures (AMs), MSY (or proxy), OY, TAC, management parameters such as overfished and overfishing definitions, gear restrictions (ranging from regulation to complete prohibition), gear markings and identification, vessel markings and identification, allowable biological catch (ABC) and ABC control rules, rebuilding plans, sale and purchase restrictions, transfer at sea provisions, and restrictions relative to conditions of harvested fish (maintaining fish in whole condition, use as bait).

* * * * *

(p) *Gulf coral resources.* For a species or species group: Reporting and monitoring requirements, permitting requirements, bag and possession limits (including a bag limit of zero), size limits, vessel trip limits, closed seasons or areas and reopenings, annual catch limits (ACLs), annual catch targets (ACTs), quotas (including a quota of zero), accountability measures (AMs), MSY (or proxy), OY, TAC, management parameters such as overfished and overfishing definitions, gear restrictions (ranging from regulation to complete prohibition), gear markings and identification, vessel markings and identification, allowable biological catch (ABC) and ABC control rules, rebuilding plans, sale and purchase restrictions, transfer at sea provisions, and restrictions relative to conditions of harvested corals.

■ 15. In § 622.49, the section heading and paragraph (a)(3) are revised, paragraphs (c) and (e), (f), (g), and (h) are added and reserved, and paragraphs (a)(6) through (a)(16) and paragraph (d) are added to read as follows:

§ 622.49 Annual catch limits (ACLs) and accountability measures (AMs).

(a) * * *

(3) *Other shallow-water grouper (SWG) combined (including black grouper, scamp, yellowfin grouper, and yellowmouth grouper)*—(i) *Commercial sector.* The IFQ program for groupers and tilefishes in the Gulf of Mexico serves as the accountability measure for other commercial SWG. The commercial ACL for other SWG is equal to the applicable quota specified in § 622.42(a)(1)(iii)(A).

(ii) *Recreational sector.* If the sum of the commercial and recreational landings, as estimated by the SRD, exceeds the stock complex ACL specified in paragraph (a)(3)(iii) of this section, then during the following fishing year, if the sum of the commercial and recreational landings reaches or is projected to reach the applicable ACL specified in (a)(3)(iii) of this section, the AA will file a notification with the Office of the Federal Register to close the recreational sector for the remainder of that fishing year.

(iii) The stock complex ACLs for other SWG, in gutted weight, are 688,000 lb (312,072 kg) for 2012, 700,000 lb (317,515 kg) for 2013, 707,000 lb (320,690 kg) for 2014, and 710,000 lb (322,051 kg) for 2015 and subsequent years.

* * * * *

(6) *Deep-water grouper (DWG) combined (including yellowedge grouper, warsaw grouper, snowy grouper, and speckled hind)*—

(i) *Commercial sector.* The IFQ program for groupers and tilefishes in the Gulf of Mexico serves as the accountability measure for commercial DWG. The commercial ACL for DWG is equal to the applicable quota specified in § 622.42(a)(1)(ii).

(ii) *Recreational sector.* If the sum of the commercial and recreational landings, as estimated by the SRD, exceeds the stock complex ACL specified in paragraph (a)(6)(iii) of this section, then during the following fishing year, if the sum of commercial and recreational landings reaches or is projected to reach the applicable ACL specified in (a)(6)(iii) of this section, the AA will file a notification with the Office of the Federal Register to close the recreational sector for the remainder of that fishing year.

(iii) The stock complex ACLs for DWG, in gutted weight, are 1.216 million lb (0.552 million kg) for 2012, 1.207 million lb (0.547 million kg) for 2013, 1.198 million lb (0.543 million kg) for 2014, 1.189 million lb (0.539 million

kg) for 2015, and 1.105 million lb (0.501 million kg) for 2016 and subsequent years.

(7) *Tilefishes combined (including goldface tilefish, blueline tilefish, and tilefish)*—(i) *Commercial sector.* The IFQ program for groupers and tilefishes in the Gulf of Mexico serves as the accountability measure for commercial tilefishes. The commercial ACL for tilefishes is equal to the applicable quota specified in § 622.42(a)(1)(iv).

(ii) *Recreational sector.* If the sum of the commercial and recreational landings, as estimated by the SRD, exceeds the stock complex ACL specified in paragraph (a)(7)(iii) of this section, then during the following fishing year, if the sum of commercial and recreational landings reaches or is projected to reach the applicable ACL specified in (a)(7)(iii) of this section, the AA will file a notification with the Office of the Federal Register to close the recreational sector for the remainder of that fishing year.

(iii) The stock complex ACL for tilefishes is 608,000 lb (275,784 kg), gutted weight.

(8) *Lesser amberjack, almaco jack, and banded rudderfish, combined.* If the sum of the commercial and recreational landings, as estimated by the SRD, exceeds the stock complex ACL, then during the following fishing year, if the sum of commercial and recreational landings reaches or is projected to reach the stock complex ACL, the AA will file a notification with the Office of the Federal Register to close the commercial and recreational sectors for the remainder of that fishing year. The stock complex ACL for lesser amberjack, almaco jack, and banded rudderfish, is 312,000 lb (141,521 kg), round weight.

(9) *Silk snapper, queen snapper, blackfin snapper, and wenchman, combined.* If the sum of the commercial and recreational landings, as estimated by the SRD, exceeds the stock complex ACL, then during the following fishing year, if the sum of commercial and recreational landings reaches or is projected to reach the stock complex ACL, the AA will file a notification with the Office of the Federal Register to close the commercial and recreational sectors for the remainder of that fishing year. The stock complex ACL for silk snapper, queen snapper, blackfin snapper, and wenchman, is 166,000 lb (75,296 kg), round weight.

(10) *Vermilion snapper.* If the sum of the commercial and recreational landings, as estimated by the SRD, reaches or is projected to reach the stock ACL, the AA will file a notification with the Office of the Federal Register to close the commercial and recreational sectors for the remainder of the fishing year. The stock ACL for vermilion snapper is 3.42 million lb (1.55 million kg), round weight.

(11) *Lane snapper.* If the sum of the commercial and recreational landings, as estimated by the SRD, exceeds the stock ACL, then during the following fishing year, if the sum of commercial and recreational landings reaches or is projected to reach the stock ACL, the AA will file a notification with the Office of the Federal Register to close the commercial and recreational sectors for the remainder of that fishing year. The stock ACL for lane snapper is 301,000 lb (136,531 kg), round weight.

(12) *Gray snapper.* If the sum of the commercial and recreational landings, as estimated by the SRD, exceeds the stock ACL, then during the following fishing year, if the sum of commercial and recreational landings reaches or is projected to reach the stock ACL, the AA will file a notification with the Office of the Federal Register to close the commercial and recreational sectors for the remainder of that fishing year. The stock ACL for gray snapper is 2.42 million lb (1.10 million kg), round weight.

(13) *Cubera snapper.* If the sum of the commercial and recreational landings, as estimated by the SRD, exceeds the stock ACL, then during the following fishing year, if the sum of commercial and recreational landings reaches or is projected to reach the stock ACL, the AA will file a notification with the Office of the Federal Register to close the commercial and recreational sectors for the remainder of that fishing year. The stock ACL for cubera snapper is 5,065 lb (2,297 kg), round weight.

(14) *Yellowtail snapper.* If the sum of the commercial and recreational landings, as estimated by the SRD, exceeds the stock ACL, then during the following fishing year, if the sum of commercial and recreational landings reaches or is projected to reach the stock ACL, the AA will file a notification with the Office of the Federal Register to close the commercial and recreational sectors for the remainder of that fishing year. The stock ACL for yellowtail snapper is 725,000 lb (328,855 kg), round weight.

(15) *Mutton snapper.* If the sum of the commercial and recreational landings, as estimated by the SRD, exceeds the stock ACL, then during the following fishing year, if the sum of commercial and recreational landings reaches or is projected to reach the stock ACL, the AA will file a notification with the Office of the Federal Register to close the commercial and recreational sectors for the remainder of that fishing year. The stock ACL for mutton snapper is 203,000 lb (92,079 kg), round weight.

(16) *Hogfish.* If the sum of the commercial and recreational landings, as estimated by the SRD, exceeds the stock ACL, then during the following fishing year, if the sum of commercial and recreational landings reaches or is projected to reach the stock ACL, the AA will file a notification with the Office of the Federal Register to close the commercial and recreational sectors for the remainder of that fishing year. The stock ACL for hogfish is 208,000 lb (94,347 kg), round weight.

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(d) *Royal red shrimp in the Gulf.* (1) *Commercial sector.* If commercial landings, as estimated by the SRD, exceed the commercial ACL, then during the following fishing year, if commercial landings reach or are projected to reach the commercial ACL, the AA will file a notification with the Office of the Federal Register to close the commercial sector for the remainder of that fishing year. The commercial ACL for royal red shrimp is 334,000 lb (151,500 kg), tail weight.

(2) [Reserved]

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16. In Appendix A to part 622, Table 3 is revised to read as follows:

Appendix A to Part 622—Species Tables

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Table 3 of Appendix A to Part 622—Gulf Reef Fish

Balistidae—Triggerfishes
- Gray triggerfish, *Balistes capriscus*

Carangidae—Jacks
- Greater amberjack, *Seriola dumerili*
- Lesser amberjack, *Seriola fasciata*
- Almaco jack, *Seriola rivoliana*
- Banded rudderfish, *Seriola zonata*

Labridae—Wrasses
- Hogfish, *Lachnolaimus maximus*

Lutjanidae—Snappers
- Queen snapper, *Etelis oculatus*
- Mutton snapper, *Lutjanus analis*
- Blackfin snapper, *Lutjanus buccanella*
- Red snapper, *Lutjanus campechanus*
- Cubera snapper, *Lutjanus cyanopterus*
- Gray (mangrove) snapper, *Lutjanus griseus*
- Lane snapper, *Lutjanus synagris*
- Silk snapper, *Lutjanus vivanus*
- Yellowtail snapper, *Ocyurus chrysurus*
- Wenchman, *Pristipomoides aquilonaris*
- Vermilion snapper, *Rhomboplites aurorubens*

Malacanthidae—Tilefishes
- Goldface tilefish, *Caulolatilus chrysops*
- Blueline tilefish, *Caulolatilus microps*
- Tilefish, *Lopholatilus chamaeleonticeps*

Serranidae—Groupers
- Speckled hind, *Epinephelus drummondhayi*
- Yellowedge grouper, *Epinephelus flavolimbatus*
- Goliath grouper, *Epinephelus itajara*

Red grouper, *Epinephelus morio*
Warsaw grouper, *Epinephelus nigritus*
Snowy grouper, *Epinephelus niveatus*
Black grouper, *Mycteroperca bonaci*
Yellowmouth grouper, *Mycteroperca interstitialis*
Gag, *Mycteroperca microlepis*
Scamp, *Mycteroperca phenax*
Yellowfin grouper, *Mycteroperca venenosa*

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