

§ 622.20 [Amended]

■ 2. In § 622.20, paragraph (b)(2)(iv)(A) is suspended.

■ 3. In § 622.34, paragraph (v) is added to read as follows:

§ 622.34 Gulf EEZ seasonal and/or area closures.

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(v) Closure of the recreational sector for gag. The recreational sector for gag in the Gulf EEZ is closed. During the closure, all recreational harvest and possession of gag grouper in or from the Gulf EEZ is prohibited. Such fish caught in the Gulf EEZ must be released immediately with a minimum of harm.

■ 4. In § 622.39, paragraph (b)(1)(ii) is suspended, and paragraph (b)(1)(viii) is added, to read as follows:

§ 622.39 Bag and possession limits.

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(b) * * *

(1) * * *

(viii) Groupers, combined, excluding goliath grouper, Nassau grouper, and gag—4 per person per day, but not to exceed 1 speckled hind or 1 warsaw grouper per vessel per day, or 2 red grouper per person per day. However, no grouper may be retained by the captain or crew of a vessel operating as a charter vessel or headboat. The bag limit for such captain and crew is zero.

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■ 5. In § 622.42, paragraphs (a)(1)(iii)(A)(3) and (a)(1)(iii)(B)(3) are suspended, and paragraphs (a)(1)(iii)(A)(4) and (a)(1)(iii)(B)(4) are added, to read as follows:

§ 622.42 Quotas.

(a) * * *

(1) * * *

(iii) * * *

(A) * * *

(4) For fishing year 2011 and subsequent fishing years—4.83 million lb (2.19 million kg).

(B) * * *

(4) For fishing year 2011 and subsequent fishing years—100,000 lb (45,359 kg).

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 100803319-0565-02]

RIN 0648-BA04

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Red Grouper Management Measures

AGENCY: National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement actions identified in a regulatory amendment to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP) prepared by the Gulf of Mexico Fishery Management Council (Council). This final rule reduces the commercial quota for red grouper and, thus, the combined commercial quota for shallow water grouper (SWG) species, and requires vessels with valid commercial Gulf of Mexico (Gulf) reef fish permits to mark their buoy gear with the official vessel number. This rule also implements minor revisions to codified text, including a revised definition of buoy gear, re-codification of the commercial and recreational quotas for greater amberjack, revision of the recreational accountability measure for greater amberjack, and removal of outdated language for the red snapper individual fishing quota (IFQ) program. The intended effect of this final rule is to help prevent overfishing of red grouper while achieving optimum yield (OY) by reducing red grouper harvest, consistent with the findings of the recent stock assessment for this species, and to implement technical corrections to the regulations.

DATES: This rule is effective January 1, 2011, except for the amendment to § 622.42(a)(1)(iii)(A), which will be effective upon further notification in the **Federal Register**.

ADDRESSES: Copies of the regulatory amendment, which includes an environmental assessment and regulatory impact review, may be obtained from the Gulf of Mexico Fishery Management Council, 2203 North Lois Avenue, Suite 1100, Tampa, FL 33607; telephone 813-348-1630; fax 813-348-1171; e-mail gulfcouncil@gulfcouncil.org; or may be

downloaded from the Council's Web site at <http://www.gulfcouncil.org/>.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this final rule may be submitted to NMFS by e-mail, rich.malinowski@noaa.gov, or the Office of Management and Budget (OMB), by e-mail to OIRA_Submission@omb.eop.gov, or by fax to 202-395-7285.

FOR FURTHER INFORMATION CONTACT:

Peter Hood, 727-824-5305.

SUPPLEMENTARY INFORMATION: The reef fish fishery of the Gulf of Mexico is managed under the FMP. The FMP was prepared by the Council and is implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

On October 18, 2010, NMFS published a proposed rule for the red grouper regulatory amendment and requested public comment (75 FR 63780). The proposed rule and the regulatory amendment outline the rationale for the measures contained in this final rule. A summary of the provisions implemented by this final rule is provided below.

This final rule will reduce the red grouper commercial quota from 5.75 million lb (2.53 million kg) to 4.32 million lb (1.96 million kg), and thus the combined SWG commercial quota from 7.65 million lb (3.47 million kg), as specified in § 622.42(a)(1)(iii)(A) for 2011 and subsequent fishing years, to 6.22 million lb (2.82 million kg) for 2011 and subsequent fishing years, and require vessels with valid commercial Gulf reef fish permits to mark their buoy gear with the official vessel number. This final rule will also make minor revisions to the codified text, including a revised definition of buoy gear, re-codification of the commercial and recreational quotas for greater amberjack, revision of the recreational accountability measure for greater amberjack, and removal of outdated language for the red snapper IFQ program. The purpose of this final rule is to help prevent overfishing of red grouper while achieving OY by reducing red grouper harvest consistent with the findings of the recent stock assessment for this species.

Effective Dates

This rule is effective January 1, 2011, except for the commercial SWG quota contained in this final rule. NMFS is delaying, until a future notification in the **Federal Register**, the commercial quota for SWG species specified in

§ 622.42(a)(1)(iii)(A). This delay is necessary because the interim final rule to reduce overfishing of gag, which is published in this issue of the **Federal Register**, will also become effective January 1, 2011, and the SWG quota contained in that interim final rule takes into account the temporary reduction in the gag commercial quota, and is therefore a lower quota than contained in this rule. After termination or expiration of the interim final rule, the timing of which is currently uncertain, NMFS will announce the effective date of the SWG quota contained in this final rule, unless it is superseded by subsequent rulemaking. Compliance with all other provisions of this final rule are required beginning January 1, 2011, which is the start of the fishing year and the date that quota share is distributed to IFQ participants.

Comments and Responses

The following is a summary of the comments NMFS received on the proposed rule and the red grouper regulatory amendment, and NMFS respective responses. During the comment period, NMFS received 12 comments on the proposed rule. The submissions included one letter from a Federal agency and one letter from a non-governmental organization. The remaining submissions were unique letters from individuals.

Comment 1: Some commenters questioned the scientific basis used to assess red grouper stocks and how scientific information was applied to support fishery management decisions. They indicated the data used were outdated, flawed, or anecdotal.

Response: Stock assessments are conducted under the scientifically peer reviewed Southeast Data, Assessment, and Review (SEDAR) process, which was initiated in 2002 to improve the quality and reliability of fishery stock assessments in the Gulf, South Atlantic, and U.S. Caribbean. SEDAR seeks improvements in the scientific quality of stock assessments and supporting information available to address existing and emerging fishery management issues. This process emphasizes constituent and stakeholder participation in assessment development, transparency in the assessment process, and a rigorous and independent scientific review of completed stock assessments. SEDAR is organized around three workshops. First, the data workshop documents, analyzes, and reviews datasets to be used for assessment analyses. Second, the assessment workshop develops and refines quantitative population analyses and estimates population parameters.

The final workshop is conducted by a panel of independent experts who review the data and the assessment and recommend the most appropriate values of critical population and management quantities. The 2006 red grouper assessment and 2009 update assessment were both conducted within this SEDAR process. All workshops and Council initiated meetings to review the assessment were open to the public and included constituent participation on the various SEDAR panels to ensure the transparency of the data and how it was applied in the assessments. The data incorporated into the SEDAR assessment is derived from both fishery-dependent and fishery-independent data. Examples of fishery-dependent data include, but are not limited to; logbook data, trip tickets, dockside sampling, dealer reports, and marine recreational fishing statistical survey (MRFSS). Fishery-independent data sources consist of data provided through surveys and research conducted by Federal, state, and academic institutions. In addition, the Council's Scientific and Statistical Committee reviewed the assessment results and made recommendations to the Council about the adequacy of the assessments and what level to set the acceptable biological catch.

Comment 2: One commenter questioned that red tide could be responsible for the 2005 mortality event modeled in the update assessment.

Response: Red tide is thought to have contributed to the 2005 episodic mortality event. In the 2009 update assessment, two models were run to estimate red grouper abundance. The model with the best fit was one that took into account decreases in indices of abundance thought to have occurred because of the red tide event documented in 2005. Although the model cannot show a direct link between the red tide event and the decrease in red grouper abundance, it does indicate a variable was present in 2005 that depressed the stock size.

Comment 3: Some commenters indicated that problems with the red grouper stock were due to the red grouper commercial harvest, particularly the longline component of the commercial sector. They suggested measures restricting commercial harvest such as banning or severely restricting longline gear use.

Response: Recent management measures implemented through Amendment 31 (75 FR 21512, April 26, 2010) have reduced the number of longline vessels in the Gulf reef fish fishery and further limited where they can fish. A ban on longline gear is

outside the scope of this action because a gear ban is not currently authorized under the framework procedures within the FMP as a measure that may be implemented through a regulatory amendment. Additional management measures to rebuild the red grouper stock may be implemented through Amendment 32.

Comment 4: Several commenters were against lowering the red grouper total allowable catch (TAC), particularly because the stock is neither overfished nor undergoing overfishing. One commenter pointed out that if the commercial sector was harvesting red grouper at a level below the TAC, then there is no rationale for revising the current management measures. Commercial fishermen pointed out that by reducing the TAC, and thus the commercial quota, the amount of IFQ allocation they will receive will also be reduced making it harder to make a living commercial fishing.

Response: The 2009 update assessment for red grouper indicated that although the stock continues to be neither overfished nor undergoing overfishing, the stock has declined since 2005. As described in the assessment's discussion of the stock's status, this decline was attributed to a 2005 episodic mortality event resulting in over 20 percent additional mortality to the adult stock. Therefore, there is a need to improve the stock condition to a level where, at equilibrium, the stock can be harvested at OY. This goal is consistent with the Magnuson-Stevens Act, which requires NMFS and regional fishery management councils to prevent overfishing, and achieve, on a continuing basis, the OY from federally managed fish stocks. The TAC, and resultant commercial quota, that the Council proposed is based on recommendations from the SSC to allow the stock to recover to the equilibrium stock size where OY can be harvested.

Comment 5: One commenter indicated that the proposed buoy gear definition was still too ambiguous to be effectively enforced. The commenter stated that gangions should not be allowed as a method to attach hooks to buoy gear and that there should be a limited number of buoy gear rigs allowed for a vessel.

Response: The revised definition of buoy gear will enhance the enforceability of the use of this gear, both at sea and shoreside. By allowing the use of gangions for attaching hooks on buoy gear, reef fish fishermen who previously used longlines, but had to change their fishing methods because they did not qualify for a longline endorsement under actions

implemented through Amendment 31, will save money since they already possess gangions from their currently owned longline gear. A limit on the number of buoy gear rigs that can be carried on a vessel was not considered. The intent of the action was not to reduce the use of buoy gear, it was merely to more precisely identify the gear; thus measures limiting the amount of gear that could be used are beyond the scope of the issue being addressed.

Comment 6: Several commenters indicated regionalized red grouper management should be considered to allow a greater proportion of the red grouper harvest to occur in areas where red grouper are more abundant.

Response: Regionalized management was not considered as an alternative for this action because it will not prevent overfishing of red grouper. However, the Council continues to examine regionalized management for reef fish species. In the course of developing long-term management measures in Amendment 32, the Council is considering seasonal-area closures for grouper species, which is considered an example of regionalized management.

Comment 7: One commenter indicated fishing effort is reduced because of current economic conditions and, therefore, no management measures are required for the recreational sector.

Response: In developing fishing regulations to limit harvest, current and past fishing effort levels are taken into account. These levels would reflect trends in effort stemming from factors such as the economy. This was considered in the decision to not revise the recreational management measures for red grouper.

Classification

The Regional Administrator, Southeast Region, NMFS has determined that this red grouper regulatory amendment is necessary for the conservation and management of Gulf reef fish and is consistent with the Magnuson-Stevens Act and other applicable laws.

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

A final regulatory flexibility analysis (FRFA) was prepared. 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. A copy of the full analysis is available from NMFS (see **ADDRESSES**). A summary of the FRFA follows.

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

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

The preamble of this final rule and the previously published proposed rule provides a statement of the need for and objectives of this rule, and it is not repeated here.

No significant issues associated with the economic analysis were raised through public comment on the proposed rule. A summary of the comments received are provided in the previous section of this preamble. No changes were made in this final rule as a result of these comments.

This final rule is expected to directly affect commercial harvesting operations. The Small Business Administration (SBA) has established size criteria for all major industry sectors in the U.S., including fish harvesters. 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.

This final rule is expected to directly affect commercial fishing vessels whose owners possess commercial Gulf reef fish permits or red grouper fishing quota shares. As of August 10, 2010, 951 entities possessed a valid or renewable Gulf reef fish permit. These 951 entities are expected to be directly affected by the action to require vessels to mark their buoy gear with their official vessel number.

This final rule will not alter existing reporting or record keeping requirements but will alter certain compliance requirements. Specifically, vessels with valid commercial Gulf reef fish permits will be required to mark their buoy gear with their official vessel number. The most significant burden imposed by this requirement is the time needed to mark the gear. Under the definition of buoy gear, the maximum number of buoys per vessel is expected to be 20. The time required to mark each buoy is estimated to be approximately 20 minutes. Thus, the annual time burden per vessel is approximately 6.67 hours. According to the most recent data from the Bureau of Labor Statistics (BLS), the average nominal wage for fishers and fishing related workers is \$12.79, or \$12.74 in 2008 dollars. This value is used as a monetary estimate of the opportunity cost of time on a per hour basis. Thus, the annual opportunity cost per vessel resulting from this requirement is estimated to be

approximately \$85. For the 951 vessels with valid or renewable commercial Gulf reef fish permits, the annual opportunity cost is estimated to be \$80,812. Since opportunity costs impose no direct financial costs, this increase in opportunity costs is not expected to reduce profit for these vessels.

As of October 1, 2009, 970 entities owned a valid commercial Gulf reef fish permit, and thus, were eligible for initial shares and allocation in the grouper and tilefish IFQ program. Of these 970 entities, 908 entities initially received shares and allocation of grouper or tilefish, and 815 entities specifically received red grouper shares and an initial allocation of the commercial sector's red grouper quota in 2010. These 815 entities are expected to be directly affected by the action to reduce the red grouper commercial quota.

Of the 815 entities that initially received red grouper shares, 191 were not commercially fishing in 2008 or 2009 and thus had no commercial fishing revenue during these years. On average, these 191 entities received an initial allocation of 6,459 lb (2,936 kg) of red grouper in 2010. Eight of these 191 entities also received a bottom longline endorsement in 2010. These 8 entities received a much higher initial allocation of red grouper in 2010, with an average of approximately 44,000 lb (20,000 kg).

The other 624 entities that initially received red grouper shares and allocations in 2010 were active in commercial fisheries in 2008 or 2009. The maximum annual commercial fishing revenue in 2008 or 2009, by an individual vessel with a commercial Gulf reef fish permit or red grouper fishing quota shares was approximately \$606,000 (2008 dollars). Based on this value, all commercial fishing vessels expected to be directly affected by this final rule are determined for the purpose of this analysis to be small business entities.

Of the 624 commercial fishing vessels with commercial landings in 2008 or 2009, 126 vessels did not have any red grouper landings in 2008 or 2009. Their average annual gross revenue in these 2 years was approximately \$55,800 (2008 dollars). The vast majority of these vessels' commercial fishing revenue is from a combination of landings of snapper, mackerel, dolphin, and wahoo. However, as described in the regulatory amendment, in 2009, they did become relatively more dependent on landings of highly migratory species (HMS) and relatively less dependent on landings of deep-water grouper species. On average, in 2010, these vessels received an initial allocation of 2,524 lb (1,147 kg) of red

grouper quota. Five of these vessels also received a bottom longline endorsement in 2010.

The remaining 498 commercially active fishing vessels did have landings of red grouper in 2008 or 2009. Their average annual gross revenue from commercial fishing was approximately \$66,000 (2008 dollars) between the two years. On average, these vessels had 9,425 lb (4,284 kg) and 6,734 lb (3,061 kg) of red grouper landings in 2008 and 2009 respectively, or 8,053 lb (3,660 kg) between the 2 years. Red grouper landings accounted for approximately 35 percent of these vessels' annual average gross revenue, and thus they are relatively dependent on revenue from red grouper landings. These vessels' average initial red grouper allocation in 2010 was 8,404 lb (3,820 kg). Therefore, on average, their 2008 and 2009 red grouper landings are very near their 2010 red grouper allocation, though their red grouper landings differed considerably between 2008 and 2009.

Of these 498 vessels, 49 vessels also received a bottom longline endorsement in 2010. These particular vessels' average annual revenue was approximately \$156,000 (2008 dollars) in 2008 and 2009. Revenue from red grouper landings decreased from approximately \$104,000 to \$65,000 in 2009. Nonetheless, these vessels remain highly dependent on revenue from red grouper landings, which averaged approximately 36,000 lb (13,364 kg) in 2008 and 23,000 lb (10,455 kg) in 2009. Their average initial 2010 allocation of red grouper was approximately 42,000 lb (19,091 kg) and thus their recent year's harvest has been within that 2010 average allocation, particularly in 2009.

The 191 entities with red grouper shares that did not participate in commercial fishing in 2008 or 2009 have no commercial fishing revenue and did not earn profit from commercial fishing in those 2 years. Under the action to decrease the red grouper commercial quota, allocation of red grouper in 2011 will be reduced, on average, by approximately 1,608 lb (731 kg). Using the 2008 average price of \$2.85 per lb, this loss in allocation could potentially represent an annual loss of nearly \$4,600 in gross revenue per entity. For the eight entities with red grouper shares that also possess longline endorsements, the average annual allocation of red grouper will be reduced by nearly 11,000 lb (5,000 kg). Thus, the potential loss in gross revenue, estimated to be nearly \$31,400, could be much higher. However, in general, this potential loss in gross revenue could only reduce profit if these entities not only become active in

commercial fishing, but specifically intend to harvest red grouper in 2011, and at a level above their reduced allocation. It is important to note that the commercial sector has not harvested the commercial red grouper quota since the 2006 fishing year. Alternatively, these potential losses in gross revenue could be due to these entities' inability to sell the allocations they are losing under the action, though this possibility presumes that a demand for these allocations exists. Nevertheless, the significance of this potential loss in gross revenue to these 191 entities cannot be evaluated given the lack of information on potential gross revenue and profit from commercial fishing in general and specifically for red grouper.

Profit estimates are not currently available for the 126 entities with red grouper shares that participated in the commercial sector for species other than red grouper. However, since these vessels did not have any red grouper landings, none of their gross revenue and thus none of their profit were the result of red grouper harvests. Under the action to decrease the red grouper commercial quota, the average allocation of red grouper in 2011 will be reduced by approximately 629 lb (286 kg). Using the 2008 average price of \$2.85 per pound, this loss in allocation could potentially represent an annual loss of nearly \$1,800 in gross revenue per entity. However, this potential loss in gross revenue could only lead to a loss in profit if these entities intend to become active in the red grouper component of the Gulf reef fish fishery in 2011 and at a level above their reduced allocation. Thus, for example, assuming these vessels intend to harvest red grouper in 2011 at a level equivalent to their 2010 allocation, and this harvest was in addition to, rather than in place of, their recent commercial fishing activities, the reduction in allocation could lead to a maximum loss of approximately three percent in gross revenue which could in turn reduce profit. Alternatively, losses in gross revenue could be due to these entities' inability to sell the allocations being lost under the action, though this possibility presumes that a demand for the allocations exists.

Profit estimates are not currently available for the 498 entities with red grouper shares that participated in the commercial red grouper sector of the Gulf reef fish fishery in 2008 or 2009. Under the action to decrease the red grouper quota, these vessels' red grouper allocations will be reduced by approximately 2,092 lb (951 kg) on average. As these vessels have been harvesting at levels near their 2010

allocation in recent years on average, this reduction in red grouper allocation is likely to lead to a future reduction in red grouper landings and therefore gross revenue. Using the average 2008 price of \$2.85 per pound, it is estimated that these vessels could lose nearly \$6,000, or approximately 9 percent, in average annual gross revenue. A loss in gross revenue of this magnitude will likely lead to a reduction in profit.

However, for the 49 vessels with red grouper shares that were active in the red grouper component of the Gulf reef fish fishery and also received a bottom longline endorsement in 2010, their allocation of red grouper in 2011 will decrease by approximately 10,400 lb (4,727 kg) under the action. For these particular vessels, the loss in red grouper landings could range from zero to the full amount of the decrease in allocation, though the latter is unlikely given new regulations restricting the use of longline gear implemented through Amendment 31 (75 FR 21512, April 26, 2010). Even if these vessels intend to harvest red grouper in 2011 at levels comparable to 2008, prior to the implementation of regulations restricting the use of longline gear, they will only lose approximately 4,600 lb (2,091 kg) in red grouper landings rather than the full amount of their reduced allocation. This loss in landings is estimated to be valued at approximately \$13,000 in gross revenue, or 8 percent of their average annual gross revenue. Such a loss in gross revenue will likely reduce their profit. However, if they intend to harvest at levels comparable to 2009, then their reduced allocation will still be above their intended landings. Therefore, the reduction in allocation will not lead to a reduction in landings from what they will have otherwise been and thus gross revenue and profit will also not be reduced.

Two alternatives, including the status quo, were considered for the action to reduce the red grouper commercial quota to 4.32 million lb (1.96 million kg). The first alternative, the status quo, will have maintained the red grouper commercial quota at the current level of 5.75 million lb (2.61 million kg). This alternative is not consistent with the goals and objectives of the Council's plan to manage red grouper to achieve the mandates of the Magnuson-Stevens Act. Specifically, this alternative will be inconsistent with current National Standard 1 guidance because the associated TAC of 7.57 million lb (3.43 million kg) will be above the allowable biological catch (ABC) of 6.31 million lb (2.86 million kg) recommended by the Council's SSC.

The second alternative would have set the red grouper commercial quota at 4.80 million lb (2.18 million kg). This amount is equal to 85 percent of the yield of the fishing mortality at maximum sustainable yield (F_{MSY}), which the SSC considered sufficient to reduce the probability that overfishing might occur in 2011. However, this alternative is inconsistent with the method established by the Council in Amendment 30B where the annual catch target will be based on the yield associated with the fishing mortality at OY (F_{OY}).

One alternative, the status quo, was considered for the action to require vessels with valid commercial Gulf reef fish permits to mark their buoy gear with the official vessel number. The Council and NMFS have determined that the current definition of buoy gear is ambiguous. This ambiguity has led to problems with monitoring and enforcement of buoy gear regulations and thus a clearer definition of this gear type is being implemented. By not requiring the marking of buoy gear, this alternative will not improve the monitoring and enforcement of buoy gear regulations since law enforcement personnel will not be able to determine which vessel deployed the gear if the gear is left unattended.

This final rule contains a collection-of-information requirement subject to the Paperwork Reduction Act (PRA) applicable to vessels in the Gulf reef fish fishery, namely, a requirement to mark buoy gear with the official vessel number (U.S. Coast Guard documentation number or state registration number).

This requirement has been approved by the OMB under control number 0648-0359. The public reporting burden for this collection-of-information is estimated to average 20 minutes per buoy. This estimate of the public reporting burden includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection-of-information. Send comments regarding the burden estimate or any other aspect of the collection-of-information requirement, including suggestions for reducing the burden, to NMFS and to OMB (see ADDRESSES).

Notwithstanding any other provision of law, no person is required to respond to, nor shall be subject to the requirements of the PRA unless that collection of information displays a currently valid OMB control number.

List of Subjects in 50 CFR Part 622

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

Dated: November 24, 2010.

Samuel D. Rauch III,
Deputy Assistant Administrator for
Regulatory Programs, National Marine
Fisheries Service.

■ For the reasons set out in the preamble, 50 CFR part 622 is 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 “buoy gear” is revised to read as follows:

§ 622.2 Definitions and acronyms.

* * * * *

Buoy gear means fishing gear that fishes vertically in the water column that consists of a single drop line suspended from a float, from which no more than 10 hooks can be connected between the buoy and the terminal end, and the terminal end contains a weight that is no more than 10 lb (4.5 kg). The drop line can be rope (hemp, manila, cotton or other natural fibers; nylon, polypropylene, spectra or other synthetic material) or monofilament, but must not be cable or wire. The gear is free-floating and not connected to other gear or the vessel. The drop line must be no greater than 2 times the depth of the water being fished. All hooks must be attached to the drop line no more than 30 ft (9.1 m) from the weighted terminal end. These hooks may be attached directly to the drop line; attached as snoods (defined as an offshoot line that is directly spliced, tied or otherwise connected to the drop line), where each snood has a single terminal hook; or as gangions (defined as an offshoot line connected to the drop line with some type of detachable clip), where each gangion has a single terminal hook.

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■ 3. In § 622.6, paragraph (b)(3) is added to read as follows:

§ 622.6 Vessel and gear identification.

* * * * *

(b) * * *

(3) *Buoy gear.* In the Gulf EEZ, if buoy gear is used or possessed, each buoy must display the official number of the vessel.

■ 4. In § 622.42, the first sentence of the introductory text is revised; paragraphs

(a)(1)(i)(A) and (B) are removed; paragraphs (a)(1)(iii)(A) and (C) are revised; and paragraphs (a)(1)(v) and (a)(2)(ii) are added to read as follows:

§ 622.42 Quotas.

Quotas apply for the fishing year for each species or species group, unless accountability measures are implemented during the fishing year pursuant to § 622.49, due to a quota overage occurring the previous year, in which case a reduced quota will be specified through notification in the **Federal Register.** * * *

(a) * * *

(1) * * *

(iii) * * *

(A) *SWG combined*—6.22 million lb (2.82 million kg).

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(C) *Red grouper*—4.32 million lb (1.96 million kg).

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(v) *Greater amberjack*—503,000 lb (228,157 kg), round weight.

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(2) * * *

(ii) *Recreational quota for greater amberjack.* The recreational quota for greater amberjack is 1,368,000 lb (620,514 kg), round weight.

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■ 5. In § 622.49, the second sentence of paragraph (a)(1)(ii) is revised to read as follows:

§ 622.49 Accountability measures.

(a) * * *

(1) * * *

(ii) * * * In addition, if despite such closure, recreational landings exceed the quota, the AA will file a notification with the Office of the Federal Register, at or near the beginning of the following fishing year, to reduce the quota for that following year by the amount of the overage in the prior fishing year, and to reduce the length of the recreational fishing season for the following fishing year by the amount necessary to recover the overage from the prior fishing year.

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