reported any wreckfish landings between April 16, 2006, and January 14, 2011.

(iii) *Percentage share set-aside to accommodate resolution of appeals.* During the 2012–2013 fishing year, the RA will reserve 5 percent of wreckfish ITQ shares prior to redistributing shares (see paragraph (a)(1)(ii) of this section) to accommodate resolution of appeals, if necessary. NMFS will distribute any portion of the 5-percent share remaining after the appeals process as soon as possible among the remaining shareholders.

(iv) *Procedure for appealing wreckfish quota share status and landings information.* Appeals must be submitted to the RA postmarked no later than [*date 90 days after the effective date of the final rule*] and must contain documentation supporting the basis for the appeal. The only items subject to appeal are the status of wreckfish quota shares, as active or inactive and the accuracy of the amount of landings. The RA will review and evaluate all appeals, render final decisions on the appeals, and advise the appellant of the final decision. Appeals based on hardship factors will not be considered. The RA will determine the outcome of appeals based on NMFS' logbooks. If NMFS' logbooks are not available, the RA may use state landings records. Appellants must submit NMFS' logbooks or state landings records, as appropriate, to support their appeal.

(2) *Share transfers.* All or a portion of a person's percentage shares are transferrable. Transfer of shares must be reported on a form available from the RA. The RA will confirm, in writing, each transfer of shares. The effective date of each transfer is the confirmation date provided by the RA. NMFS charges a fee for each transfer of shares and calculates the amount in accordance with the procedures of the NOAA Finance Handbook. The handbook is available from the RA. The fee may not exceed such costs and is specified with each transfer form. The appropriate fee must accompany each transfer form.

(3) *ITQ share cap.* No person, including a corporation or other entity, may individually or collectively hold ITQ shares in excess of 49 percent of the total shares. For the purposes of considering the share cap, a corporation's total ITQ share is determined by adding the corporation's ITQ shares to any other ITQ shares the corporation owns in another corporation. If an individual ITQ shareholder is also a shareholder in a corporation that holds ITQ shares, an individual's total ITQ share is determined by adding the applicable ITQ shares held by the individual to the applicable ITQ shares equivalent to the corporate share the individual holds in a corporation. A corporation must provide the RA the identity of the shareholders of the corporation and their percent of shares in the corporation, and provide updated information to the RA within 30 days of when a change occurs. This information must also be provided to the RA any time a commercial vessel permit for wreckfish is renewed or transferred.

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[FR Doc. 2012–7604 Filed 3–29–12; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 101202599–0641–01]

RIN 0648–BA52

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery Off the Southern Atlantic States; Amendment 24

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to implement Amendment 24 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP), as prepared by the South Atlantic Fishery Management Council (Council). If implemented, this rule would establish red grouper commercial and recreational sector annual catch limits (ACLs); establish red grouper sector accountability measures (AMs); and remove the combined gag, black grouper, and red grouper commercial quota, and commercial and recreational sector ACLs and AMs. The intent of this rule is to specify ACLs and AMs for red grouper while maintaining catch levels consistent with achieving optimum yield (OY) for the red grouper resource. Additionally, Amendment 24 would implement a rebuilding plan for red grouper in the South Atlantic.

DATES: Written comments must be received on or before April 30, 2012.

ADDRESSES: You may submit comments on the amendment identified by ''NOAA–NMFS–2011–0298'' by any of the following methods:

- *Electronic submissions:* Submit electronic comments via the Federal e-Rulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Rick DeVictor, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

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

To submit comments through the Federal e-rulemaking portal: *http://www.regulations.gov,* click on ''submit a comment,'' then enter ''NOAA–NMFS–2011–0298'' in the keyword search and click on ''search.'' To view posted comments during the comment period, enter ''NOAA–NMFS–2011–0298'' in the keyword search and click on ''search.'' NMFS will accept anonymous comments (enter N/A in the required field if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

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

Electronic copies of Amendment 24, which includes an environmental assessment, 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/SGAmend24_121411.pdf.*

FOR FURTHER INFORMATION CONTACT: Rick DeVictor, telephone: 727–824–5305, or email: *rick.devictor@noaa.gov.*

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery of the South Atlantic 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).

Background

The red grouper stock in the South Atlantic was assessed through the Southeast, Data, Assessment, and Review (SEDAR) process in 2010. The assessment indicates that the stock is experiencing overfishing and is overfished. As required by the

Magnuson-Stevens Act, the Council must implement a rebuilding plan which ends overfishing immediately and provides for rebuilding the fishery. The intent of a rebuilding plan is to increase biomass of overfished stocks to a sustainable level within a specified period of time. A plan should achieve conservation goals, while minimizing to the extent practicable adverse socio-economic impacts. NMFS notified the Council of the red grouper stock status on June 9, 2010, and the Magnuson-Stevens Act specifies that measures to end overfishing and rebuild the stock must be implemented within two years of notification.

The Magnuson-Stevens Act requires that ACLs and AMs be implemented to prevent overfishing and achieve the OY from a fishery. An ACL is the level of annual catch of a stock that if exceeded, triggers AMs. AMs are management controls to prevent ACLs from being exceeded and to correct any overages of ACLs if they occur. Two examples of AMs include an in-season closure if catch approaches the ACL and reducing the ACL by an overage that occurred the previous fishing year.

This rule would divide the red grouper ACL into sector-ACLs based upon allocation decisions and apply sector specific AMs.

Management Measures Contained in This Proposed Rule

Gag, Black Grouper, and Red Grouper, Combined ACLs and AMs

Currently, Federal regulations specify a commercial sector ACL (equivalent to the commercial quota) and recreational sector ACL for gag, black grouper, and red grouper, combined. The current combined gag, black grouper, and red grouper ACLs and AMs were implemented through Amendment 17B to the FMP (75 FR 82280, December 30, 2010), before black grouper and red grouper stock assessments were completed through SEDAR. This rule would remove the gag, black grouper, and red grouper, combined commercial and recreational ACLs and AMs as the ACLs are not based upon the best scientific information. Gag individual ACLs and AMs were previously implemented through Amendment 16 to the FMP (June 29, 2009, 74 FR 30964) and black grouper ACLs and AMs will be implemented through the Comprehensive ACL Amendment (proposed rule published December 1, 2011, 76 FR 74757) and will remain in effect.

This rule would remove this combined species group from the Federal regulations and complete the implementation of measures to specify individual ACLs and AMs for these three species.

Red Grouper Commercial and Recreational Sector ACLs and AMs

Amendment 24 would implement red grouper ACLs and AMs for the commercial and recreational sectors. The Council decided to define the red grouper ACL equal to ABC. The SSC's recommendation for ABC is the projected yield stream with a 70 percent probability of rebuilding success. The Council has chosen to define the rebuilding yield stream at the equivalent of OY (75 percent of fishing mortality (F) at maximum sustainable yield (MSY)(F_{MSY})). The resultant red grouper stock ACLs in this proposed rule are 647,000 lb (293,474 kg) for 2012, 718,000 lb (325,679 kg) for 2013, and 780,000 lb (353,802 kg) for 2014 and subsequent fishing years. If the ACLs, as estimated by the Southeast Fisheries Science Center (SEFSC) are exceeded in a fishing year, then during the following fishing year, the Assistant Administrator for Fisheries (AA) will file a notification with the Office of the Federal Register to state that both the commercial and recreational sectors will not have an increase in their respective sector ACLs during that following fishing year. Additionally, this rule would establish sector specific ACLs for the red grouper commercial and recreational sectors. The commercial sector ACLs would be 284,680 lb (129,129 kg) for 2012, 315,920 lb (143,299 kg) for 2013, and 343,200 lb (155,673 kg) for 2014 and subsequent fishing years. The recreational sector ACLs would be 362,320 lb (164,346 kg) for 2012, 402,080 lb (182,380 kg) for 2013, and 436,800 lb (198,129 kg) for 2014 and subsequent fishing years.

This rule would implement in-season commercial and recreational sector AMs for red grouper. If NMFS-estimated commercial or recreational landings for red grouper reach or are projected to reach the applicable ACL, then NMFS would file a notification with the Office of the Federal Register to close the commercial or recreational sector, as applicable, for the remainder of the fishing year.

This rule would also implement overage adjustments for red grouper. If commercial or recreational landings for red grouper exceed the applicable ACL, NMFS would file a notification with the Office of the Federal Register to reduce the applicable ACL the following fishing year by the amount of the overage in the prior fishing year. In particular, overage adjustments are needed for red grouper to follow guidance for stocks and stock complexes in rebuilding plans that ensure rebuilding occurs within the specified timeframe.

Measures Contained in Amendment 24 That Are Not in This Proposed Rule

Amendment 24 also contains actions that are not specifically addressed through this rulemaking. These items include revising the definitions of management thresholds for South Atlantic red grouper, establishing a red grouper rebuilding plan, specifying commercial and recreational sector allocations, and establishing a recreational sector annual catch target (ACT).

Modify the Current Definitions for Management Thresholds

Definitions of MSY, OY, and minimum stock size threshold (MSST) were set for red grouper in Amendment 11 to the FMP. The Council is revising these definitions based upon the most recent scientific information. Amendment 24 would specify the MSY value for red grouper equal to 1.11 million lb (503,488 kg). The OY would be set equal to the Acceptable Biological Catch (ABC) and ACL. The MSST, which is the overfished definition, would be changed. The current MSST definition specifies MSST at a level reduced from the spawning stock biomass when fishing at the MSY level. The level to be reduced depends on the natural mortality rate of the stock. Amendment 24 would change the MSST definition to 75 percent of the spawning stock biomass when fishing at the MSY level.

Red Grouper Rebuilding Plan

The Council selected a 10-year rebuilding plan for red grouper in Amendment 24. This is the maximum time frame allowed under the Magnuson-Stevens Act. However, because the Council intends to manage the stock using the fishing mortality at OY yield stream, the stock is projected to have an 81 percent chance of rebuilding in 10 years, greater than the 70 percent probability recommended by the Council's SSC. Given management uncertainties and uncertainties regarding stock assessment projections more than a few years in the future, a 10-year rebuilding plan would allow for fluctuations in catches and provide leeway to account for the needs of fishing communities when setting catch levels and management measures.

Red Grouper Commercial and Recreational Sector Allocations

Amendment 24 would implement red grouper sector allocations for the

commercial and recreational sectors. The Council has decided that sector specific ACLs and AMs are important components of red grouper management as each sector differs in its scientific and management uncertainty. The allocation of red grouper among the commercial and recreational sectors is 44 percent and 56 percent, respectively. The allocations were determined by using 50 percent of the average combined commercial and recreational landings from 1986 through 2008, in addition to using 50 percent of average combined landings from 2006 through 2008. This proposed rule would implement ACLs for the red grouper commercial and recreational sectors based on this allocation.

Red Grouper Recreational ACT

Amendment 24 would establish ACTs for the red grouper recreational sector. The ACT is the amount of annual catch of a stock or stock complex that is the management target of the fishery and accounts for management uncertainty in controlling the actual catch below the ACL so that the ACL is not exceeded. The recreational ACTs would be equal to the greater of either half of the recreational ACL or a portion of the recreational ACL, dependent on the precision of the recreational catch estimates. The recreational ACTs established through Amendment 24 would be 271,740 lb (123,259 kg) for 2012, 301,560 lb (136,785 kg) for 2013, and 327,600 lb (148,597 kg) for 2014 and subsequent fishing years. If, in the future, the Council chose to limit recreational harvest to the recreational ACT, which would serve as an in-season AM for the recreational sector, establishing the ACT lower than the recreational ACL would also reduce or eliminate the need to close or implement post-season recreational AMs that are meant to correct for an ACL overage.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the AA has determined that this proposed rule is consistent with Amendment 24, the Magnuson-Stevens Act and other applicable law, subject to further consideration after public comment.

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

NMFS prepared an IRFA, as required by section 603 of the Regulatory Flexibility Act, 5 U.S.C. 603, for this rule. The IRFA describes the economic impact that this proposed rule, if adopted, would have on small entities. A description of the proposed rule, why it is being considered, and the objectives of, and legal basis for the rule are contained at the beginning of this section in the preamble and in the **SUMMARY** section of the preamble. A copy of the full analysis is available from the NMFS (see **ADDRESSES**). A summary of the IRFA follows.

The proposed rule would specify a total red grouper ACL as equal to ABC and ABC equal to OY. This proposed rule would allocate the total ACL into 44 percent for the commercial sector and 56 percent for the recreational sector. This rule would also remove the commercial and recreational combined ACLs for black grouper, red grouper, and gag as well as the commercial and recreational AMs associated with the combined ACLs for the three species. The actual levels of the commercial and recreational ACLs are contained at the beginning of this section in the preamble and in the **SUMMARY** section of the preamble.

This proposed rule would implement in-season commercial and recreational sector AMs for red grouper. If commercial and recreational landings for red grouper reach or are projected to reach the applicable ACL, then NMFS would file a notification with the Office of the Federal Register to close the commercial and recreational sectors for the remainder of the fishing year.

This proposed rule would also implement overage adjustments for red grouper. If NMFS estimated commercial or recreational landings for red grouper exceed the applicable ACL, NMFS would file a notification with the Office of the Federal Register to reduce the applicable ACL the following fishing year by the amount of the overage in the prior fishing year. In particular, overage adjustments are needed for red grouper to follow Magnuson-Stevens Act guidance for stocks and stock complexes in rebuilding plans to include overage adjustments that reduce the ACLs in the next fishing year following an ACL overage.

Amendment 24 would establish a recreational ACT equal to the greater of either half of the recreational ACL or a portion of the recreational ACL, dependent on the estimate of precision of the recreational catch.

The intent of this proposed rule and Amendment 24 is to develop and implement a rebuilding plan to end overfishing and rebuild the spawning stock of red grouper by establishing a rebuilding schedule and a rebuilding strategy; specifying or re-specifying ABC, commercial/recreational allocation, ACLs and OY; and establishing ACTs for the recreational sector and AMs for the commercial and recreational sectors. Amendment 24 would also redefine MSY and MSST.

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

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

The proposed rule is expected to directly affect commercial fishers and for-hire operators. 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, other qualifiers apply and the annual receipts threshold is $7.0 million (NAICS code 713990, recreational industries).

From 2005–2009, an annual average of 892 vessels with valid permits to operate in the commercial snapper-grouper fishery landed snapper-grouper, generating dockside revenues of approximately $13.817 million (2009 dollars). Each vessel, therefore, generated an average of approximately $15,500 in gross revenues from snapper-grouper. Gross dockside revenues by area were distributed as follows: $4.196 million in North Carolina, $3.612 million in South Carolina, $3.219 million in Georgia/East Florida, and $2.790 in the west coast of Florida. Vessels that operate in the snapper-grouper fishery may also operate in other fisheries, the revenues of which cannot be determined with available data and are not reflected in these totals.

Based on revenue information, all commercial vessels affected by the proposed action can be considered small entities.

From 2005–2009, an annual average of 2,018 vessels had valid permits to operate in the snapper-grouper for-hire fishery, of which 82 are estimated to have operated as headboats. 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. The charterboat annual average gross revenue is estimated to range from approximately $62,000–$84,000 for Florida vessels, $73,000–$89,000 for North Carolina vessels, $68,000–$83,000 for Georgia vessels, and $32,000–$39,000 for South Carolina vessels. For headboats, the corresponding estimates are $170,000–$362,000 for Florida

vessels, and $149,000–$317,000 for vessels in the other states.

Based on these average revenue figures, all for-hire operations that would be affected by the proposed action can be considered small entities.

Some fleet activity, i.e., multiple vessels owned by a single entity, may exist in both the commercial and for-hire snapper-grouper sectors but the extent of such activity is unknown, and all vessels are treated as independent entities in this analysis. For this fleet to reach the $4 million threshold, each permitted vessel would have to generate yearly receipts of approximately $333,000. It is not known for certain whether this is the case, but it appears that such a figure of yearly receipts is too high given the above noted average gross revenues per vessel.

The proposed rule is expected to directly affect all federally-permitted commercial and for-hire vessels that operate in the South Atlantic snapper-grouper fishery. All directly affected entities have been determined, for the purpose of this analysis, to be small entities. Therefore, it is determined that the proposed action will affect a substantial number of small entities.

All entities that are expected to be affected by the proposed rule are considered small entities, so the issue of disproportional effects on small versus large entities does not arise in the present case.

The proposed action on the rebuilding strategy, ABC, and ACL would result in an increase in cumulative commercial vessel profits of $990,000 over the first 7 years of the rebuilding schedule with an additional $310,000 generated in years 8 through 10, assuming a discount rate of 7 percent. The corresponding effects on the for-hire vessels would also be an increase in cumulative profits but the magnitude cannot be estimated based on available information. These increases in commercial vessel and for-hire vessel profits are mainly a result of increases in the ACL over time which are assumed to be fully harvested.

To the extent that the proposed action for the commercial/recreational allocation of total ACL would maintain the baseline landings distribution of red grouper between the two sectors, no profit changes to the commercial or for-hire vessels are expected to occur as a direct result of the proposed action.

The proposed action for ACL/OY would provide the largest ACL/OY for red grouper, so that this proposed action may be expected to increase the profits of the commercial and for-hire vessels. The proposed action eliminating the aggregate black grouper, red grouper, and gag quota would tend to ensure profit increases from the largest ACL/OY alternative for red grouper would be realized.

The proposed action on the recreational ACT would have no impacts on the profits of for-hire vessels in the short term, because this measure is not used to trigger AM applications. Should this ACT be used in the future to trigger AMs, then it may be expected to reduce the profits of for-hire vessels. The magnitude of such reduction cannot be estimated with available information.

The proposed in-season and post-season AMs for the commercial sector are expected to limit the increases in the profits of commercial vessels as a result of ACL increases especially since the most recent landings information suggests the proposed series of ACLs would likely be exceeded in the near future.

In principle, the proposed in-season and post-season AMs for the recreational sector are expected to limit the increases in profits of for-hire vessels as a result of ACL increases. However, the most recent (2010) recreational harvest of red grouper was well below the proposed ACL for the recreational sector, suggesting that the proposed AM has a low probability of being triggered in the near future. In effect, the proposed AM for the recreational sector may be expected to have a low likelihood of affecting the profits of for-hire vessels in the near future.

Redefining MSY and MSST and establishing a rebuilding schedule for red grouper would not alter the current harvest or use of the resource and thus would not affect the profitability of small entities.

Defining a rebuilding schedule as the maximum time to rebuild the stock to biomass at MSY would add flexibility in designing management measures that would have the least short-term effects on the profitability of small entities.

Six alternatives, including the preferred alternative, were considered for the rebuilding strategy and ABC. The first alternative, the no action alternative, would not establish a rebuilding strategy for red grouper. Within a rebuilding strategy, the specification of targets and limits, such as ACLs is a crucial component of any management program involving natural resources. Without the designation of these components, regulations may not be sufficient to prevent overfishing and rebuild the stock. The second alternative would define a rebuilding strategy that sets ABC equal to the yield at $F_{REBUILD}$, which is a fishing mortality rate that would have a 70 percent probability of rebuilding success to biomass at MSY in 10 years. This alternative would provide the best profitability scenario for the commercial and for-hire vessels over the entire rebuilding timeframe. However, it would allow a higher fishing mortality rate than what would be appropriate if the stock was not overfished. Both this alternative and the preferred alternative would maintain catches at a similar level to what they have been in recent years, but the preferred alternative is more consistent with fishing at a level that would produce OY. The third alternative would define a rebuilding strategy that sets ABC equal to the yield at 65 percent of F_{MSY}. This alternative would likely result in lower profits to small entities than the preferred alternative, because it would require more restrictive management measures. The fourth alternative would define a rebuilding strategy that sets ABC equal to the yield at $F_{REBUILD}$, which is a fishing mortality rate that would have a 70 percent probability of rebuilding success to biomass at MSY in 7 years. This alternative would likely result in lower profits to small entities than the preferred alternative, because it would require more restrictive management measures. The fifth alternative would define a rebuilding strategy that sets ABC equal to the yield at $F_{REBUILD}$, which is a fishing mortality rate that would have a 70 percent probability of rebuilding success to biomass at MSY in 8 years. This alternative would likely result in lower profits to small entities than the preferred alternative, because it would require more restrictive management measures.

Two alternatives were considered for sector allocation, with one alternative being the no action alternative which would not establish sector allocation and the second would establish sector allocation. The no action alternative would not allow specification of sector ACLs and corresponding AMs, such that both sectors would be accountable for any ACL overages even if there is only one sector responsible for an ACL overage. Under the second alternative, five sub-alternatives including the preferred sub-alternative were considered. The first sub-alternative would establish a 52 percent commercial and 48 percent recreational allocation; the second sub-alternative, 54 percent commercial and 46 percent recreational allocation; the third sub-alternative, 49 percent commercial and 51 percent recreational allocation; and, the fourth sub-alternative, 41 percent commercial and 59 percent recreational allocation. All of these alternatives, including the preferred alternative,

would base the allocation ratio solely on a sector distribution of landings. No economic valuation was considered due to the absence of sufficient information. In terms of effects on the profits of small entities, the general nature of the various allocation alternatives is to favor one sector over another. The higher the allocation to one sector, the higher would be the profit potential to that sector and the lower would be the profit potential to the other sector. Among the alternatives, the preferred alternative was found to have neutral effects on profits on both the commercial and for-hire vessels, because the resulting allocation would be the same as the historical sector distribution of landings used as the baseline landings distribution.

Six alternatives, including the three preferred alternatives, were considered for ACL and OY. The three preferred alternatives are not mutually exclusive but are rather complementary to one another. The first alternative, the no action alternative, would not establish a specific ACL for red grouper. This alternative would not allow for specific management actions to address the overfished/overfishing status of the red grouper stock. The second alternative would specify an ACL for red grouper equal to OY and OY equal to 90 percent of ABC. This alternative would result in lower profit potential to small entities than the preferred alternative. The third alternative would specify an ACL for red grouper equal to OY and OY equal to 80 percent of ABC. This alternative would result in lower profit potential to small entities than the preferred alternative.

Three alternatives, including the preferred alternative, were considered for the commercial sector ACT. The first and second alternatives would set the commercial ACT equal to 90 percent and 80 percent of commercial ACL, respectively. If ACTs were used to trigger AM applications, these two alternatives would result in lower profits to small entities than the preferred alternative. The Council chose not to establish a commercial ACT (no action alternative) because the current method to track commercial harvests is adequate to determine whether the commercial ACL is met or projected to be met.

Four alternatives, including the preferred alternative, were considered for the recreational ACT. The first alternative, the no action alternative, would not specify a recreational ACT for red grouper. This alternative would not allow consideration of management uncertainty which is deemed high in the recreational sector. Without consideration of management uncertainty, the probability of exceeding the ACL would be relatively high, increasing the probability of implementing more stringent management measures. The second and third alternatives would specify a recreational ACT equal to 85 percent and 75 percent of the recreational ACL, respectively. The second alternative would likely result in the same effects on the short-run profits of small entities as the preferred alternative. The third alternative would likely result in lower profits to small entities than the preferred alternative. These short-run effects of the ACT alternatives assume that ACTs would be used in the future to trigger AM applications.

Three alternatives, including the two preferred alternatives, were considered for the commercial AM. The two preferred alternatives are not mutually exclusive but rather complementary to one another. The only alternative to the preferred alternatives is the no action alternative, which would not specify a commercial AM for red grouper. This alternative would retain the current commercial AM specified for the group of species consisting of red grouper, black grouper, and gag. This particular AM could be either more or less restrictive than the preferred AM alternatives specified for red grouper, but it would not allow implementing management measures that would specifically address the overfished and undergoing overfishing condition of the red grouper stock. In addition, the current AM for the aggregate species of red grouper, black grouper, and gag does not provide for post-season AMs. The lack of post-season AMs under the no action alternative would result in higher short-term profits to small entities than the preferred alternative. However, there is an expectation that the long-term profit environment would be better under the preferred alternatives because they would provide for higher ACLs over time, and therefore higher profits on a more sustainable basis. It should also be noted that a separate commercial sector ACL/AM for black grouper will be implemented through the Comprehensive ACL Amendment (proposed rule published on December 1, 2011, 76 FR 74757), negating the need for the aggregate species ACL/AM.

Four alternatives were considered for the recreational AM. The first alternative is the no action alternative which would not set a specific recreational AM for red grouper. This alternative would retain the current recreational AM specified for the group of species consisting of red grouper, black grouper, and gag. This particular AM could be either more or less restrictive than the preferred AM alternatives specified for red grouper, but it would not allow implementing management measures that would specifically address the overfished/overfishing condition of the red grouper stock. It should also be noted that a separate recreational sector ACL/AM for black grouper will be implemented through the Comprehensive ACL Amendment, negating the need for the aggregate species ACL/AM.

The second alternative would specify a recreational sector AM trigger and includes five sub-alternatives, including the preferred sub-alternative. The first sub-alternative would not specify a recreational sector AM trigger. This sub-alternative would likely result in higher profits to small entities than the preferred sub-alternative. However, it would not address the overfished/overfishing condition of red grouper. The second sub-alternative specifies that AM would be triggered if the mean recreational landings for the past 3 years exceed the recreational ACL. The profit environment for small entities under this sub-alternative may be lower or higher than that of the preferred sub-alternative, depending on whether the trend in landings is upward or downward.

The third sub-alternative specifies that the AM would be triggered if the modified mean (highest and lowest landings dropped) landings for the past 5 years exceed the recreational sector ACL. This sub-alternative would have the same effects on profitability as the second sub-alternative, although the magnitude may be lower. The fourth sub-alternative specifies that the AM would be triggered if the lower bound of the 90 percent confidence interval estimate of the Marine Recreational Fishing Statistical Survey landings' population mean plus headboat landings is greater than the recreational ACL. This sub-alternative is likely to produce the same effects on profitability as the first sub-alternative, but the magnitude could be lower or higher.

The third alternative for a recreational sector AM would specify a recreational sector in-season AM and includes two sub-alternatives, of which one is the preferred sub-alternative. The only sub-alternative to the preferred alternative is the no action alternative which would not specify a recreational in-season AM. This alternative would result in higher short-term profits to small entities, but it would not constrain recreational fishing pressure and thus would not aid in addressing the overfished/overfishing condition for red grouper.

The fourth alternative for a recreational sector AM would specify a recreational sector post-season AM if the current fishing year's recreational sector ACL is exceeded, and includes seven sub-alternatives, of which one is the preferred sub-alternative. The first sub-alternative would not specify a recreational sector post-season AM. This sub-alternative would result in higher short-term profits to small entities than the preferred alternative, although the expectation is for long-term profitability to better under the preferred sub-alternative. The second sub-alternative would compare the recreational sector ACL with the 2011 landings for 2011, with the mean 2011 and 2012 landings for 2012, and mean landings of the most recent 3 years for 2013 and beyond for triggering a post-season AM. This sub-alternative may or may not have the same sort of effects on profitability as the preferred alternative, depending on the specific AM measure that would be implemented.

The third sub-alternative specifies monitoring the following year's landings for persistence in increased landings, with the Regional Administrator (RA) taking management actions as necessary. This sub-alternative would likely result in the lower adverse effects on short-term profits than the preferred alternative, although the actual effects would depend on the type of restrictions that would be imposed by the RA. The fourth sub-alternative specifies monitoring the following year's landings for persistence in increased landings, with the RA publishing a notice in the **Federal Register** to reduce the recreational fishing season as necessary. This sub-alternative would likely result in less adverse effects on short term profits than the preferred sub-alternative to the extent that post-season AM may not be imposed depending on how persistent the upward trend in landings would be. If a post-season AM were necessary, this sub-alternative could still result in higher profits than the preferred alternative since it would set a specific red grouper recreational season closure date, allowing for-hire vessels to make the necessary changes in their operations.

The fifth sub-alternative specifies monitoring the following year's landings for persistence in increased landings, with the RA publishing a notice in the **Federal Register** to reduce the recreational bag limit as necessary to prevent harvest from exceeding the recreational ACL. This sub-alternative would likely result in less adverse effects on short term profits than the preferred sub-alternative to the extent that post-season AMs may not be imposed depending on how persistent the upward trend in landings would be. If a post-season AM were necessary, this sub-alternative could still result in higher profits than the preferred alternative since it would allow for-hire vessels to operate year round, although at lower bag limits. The sixth sub-alternative specifies that the RA publish a notice in the **Federal Register** to reduce the following year's recreational fishing season to ensure landings do not exceed the following fishing season's recreational ACL. There is a good possibility that this sub-alternative would result in the same fishing season length as the preferred alternative, assuming no significant changes in effort would occur in the following fishing year. It is possible that other measures, like a bag limit reduction, may be employed under the preferred alternative to effect a longer season that would provide more fishing opportunities. Whichever of these two sub-alternatives can provide more fishing opportunities may be considered better than the other from the standpoint of profits to small entities.

Two alternatives, including the preferred alternative, were considered for redefining MSY. The first alternative, the no action alternative, would retain the definition of MSY which would not reflect the conclusions of the latest stock assessment. This alternative, like the preferred alternative, would not directly affect the profitability of small entities.

Five alternatives, including the preferred alternative, were considered for redefining MSST. The first alternative, the no action alternative, would retain the definition of MSST as equal to natural mortality (M) times the biomass at MSY. The second alternative would set MSST equal to 50 percent of biomass at MSY. The third alternative would set MSST equal to 85 percent of biomass at MSY. The fourth alternative would set MSST as the minimum stock size at which rebuilding to MSY would be expected to occur within 10 years at the maximum fishing mortality threshold level. All these alternatives, like the preferred alternative, would not directly affect the profitability of small entities.

Five alternatives, including the preferred alternative, were considered for the rebuilding schedule. The first alternative, the no action alternative, would not implement a rebuilding schedule. This alternative would not comply with Magnuson-Stevens Act requirement to rebuild an overfished red grouper stock. The second, third, and fourth alternatives would establish a rebuilding period of 3 years (shortest), 7 years, and 8 years, respectively. These other alternatives would provide for a shorter rebuilding timeframe than the preferred alternative, and thus may be expected to restrict the flexibility in designing management measures that would minimize the economic effects on the profits of small entities.

List of Subjects in 50 CFR Part 622

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

Dated: March 27, 2012.

Alan D. Risenhoover,

Acting Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

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

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

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

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

§ 622.42 [Amended]

2. In § 622.42, paragraph (e)(8) is removed.

3. In § 622.43, paragraph (a)(5)(iii) is revised to read as follows:

§ 622.43 Closures.

(a) * * *

(5) * * *

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

* * * * *

4. In § 622.49, paragraph (b)(4) is revised to read as follows:

§ 622.49 Annual Catch Limits (ACLs) and Accountability Measures (AMs).

* * * * *

(b) * * *

(4) *Red grouper*—(i) *Commercial sector.* (A) If commercial landings for red grouper, as estimated by the SRD, reach or are projected to reach the applicable ACL in paragraph (b)(4)(i)(C) of this section, the AA will file a notification with the Office of the Federal Register to close the commercial sector for the remainder of the fishing year. On and after the effective date of such a notification, all sale or purchase of red grouper is prohibited and harvest or possession of this species in or from the South Atlantic EEZ is limited to the bag and possession limit. This bag and possession limit applies in the South

Atlantic on board a vessel for which a valid Federal charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, *i.e.* in state or Federal waters.

(B) If commercial landings exceed the ACL, the AA will file a notification with the Office of the Federal Register, at or near the beginning of the following fishing year to reduce the ACL for that following year by the amount of the overage in the prior fishing year.

(C) The applicable commercial ACLs, in round weight, are 284,680 lb (129,129 kg) for 2012, 315,920 lb (143,299 kg) for 2013, and 343,200 lb (155,673 kg) for 2014 and subsequent fishing years.

(ii) *Recreational sector.* (A) If recreational landings for red grouper, as estimated by the SRD, are projected to reach the applicable ACL in paragraph (b)(4)(ii)(C) 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 the fishing year. On and after the effective date of such a notification, the bag and possession limit is zero. This bag and possession limit applies in the South Atlantic on board a vessel for which a valid Federal charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, i.e. in state or Federal waters.

(B) If recreational landings for red grouper, as estimated by the SRD, exceed the applicable ACL, the AA will file a notification with the Office of the Federal Register, to reduce the recreational ACL the following fishing year by the amount of the overage in the prior fishing.

(C) The applicable recreational ACLs, in round weight, are 362,320 lb (164,346 kg) for 2012, 402,080 lb (182,380 kg) for 2013, and 436,800 lb (198,129 kg) for 2014 and subsequent fishing years.

(iii) Without regard to overfished status, if the combined commercial and recreational sector ACL (total ACL), as estimated by the SRD, is exceeded in a fishing year, then during the following fishing year, an automatic increase will not be applied to the commercial and recreational sector ACLs during that following fishing year. The SRD will evaluate the landings data to determine whether or not an increase in the respective sector ACLs will be applied. The applicable combined commercial and recreational sector ACLs, in round weight are 647,000 lb (293,474 kg) for 2012, 718,000 lb (325,679 kg) for 2013, and 780,000 lb (353,802 kg) for 2014 and subsequent fishing years.

(A) Following an overage of the total ACL, if there is no overage the following fishing year, the SRD will evaluate the landings data to determine whether or not an increase in the respective sector ACLs will be applied.

(B)[Reserved]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

RIN 0648–XA920

Atlantic Highly Migratory Species; 2012 Atlantic Bluefin Tuna Quota Specifications

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

ACTION: Notice of public hearings.

SUMMARY: On March 16, 2012, NMFS published a proposed rule to establish 2012 BFT quota specifications, and announced that public hearings would be scheduled in a future notice. In this notice NMFS is announcing public hearings in Gloucester, MA, and Silver Spring, MD, in order to provide greater opportunity for public comment on the proposed rule.

DATES: A hearing will be held on April 4, 2012, from 2 to 4 p.m. in Gloucester, MA, and a hearing will be held on April 10, 2012, from 2:30 to 4 p.m. in Silver Spring, MD. Public comments on the proposed rule must be received on or before April 16, 2012. See **SUPPLEMENTARY INFORMATION** for further details.

ADDRESSES: As published on March 16, 2012 (77 FR 15712), you may submit comments, identified by ''NOAA–NMFS–2012–0048'', by any one of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal eRulemaking Portal *http://www.regulations.gov.* To submit comments via the e-Rulemaking Portal, first click the ''submit a comment'' icon, then enter ''NOAA–NMFS–2012–0048'' in the keyword search. Locate the document you wish to comment on from the resulting list and click on the ''Submit a Comment'' icon on the right of that line.
- *Fax:* 978–281–9340, Attn: Sarah McLaughlin.
- *Mail:* Sarah McLaughlin, Highly Migratory Species Management Division, Office of Sustainable Fisheries (F/SF1), NMFS, 55 Great Republic Drive, Gloucester, MA 01930.
- *Instructions:* Comments must be submitted by one of the above methods to ensure that the comments are received, documented, and considered by NMFS. Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are a part of the public record and will generally be posted for public viewing on *http://www.regulations.gov* without change. All personal identifying information (e.g., name, address, etc.) submitted voluntarily by the sender will be publicly accessible. Do not submit confidential business information, or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word or Excel, WordPerfect, or Adobe PDF file formats only.

Supporting documents, including the 2011 Environmental Assessment, Regulatory Impact Review, and Final Regulatory Flexibility Analysis, as well as others, such as the Highly Migratory Species Fishery Management Plans may be downloaded from the HMS Web site at *www.nmfs.noaa.gov/sfa/hms/.* These documents also are available by sending your request to Sarah McLaughlin at the mailing address specified above.

The public hearing locations are:

1. Gloucester, MA—NMFS, 55 Great Republic Drive, Gloucester, MA 01930.

2. Silver Spring, MD—NMFS Science Center, 1301 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Sarah McLaughlin or Brad McHale, 978–281–9260.

SUPPLEMENTARY INFORMATION: Atlantic bluefin tuna, bigeye tuna, albacore tuna, yellowfin tuna, and skipjack tuna (hereafter referred to as ''Atlantic tunas'') are managed under the dual authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and the Atlantic Tunas Convention Act (ATCA). As an active member of the International Commission for the Conservation of Atlantic Tunas (ICCAT), the United States implements binding ICCAT recommendations to comply with this international treaty. ATCA authorizes the Secretary of Commerce (Secretary) to promulgate regulations, as may be necessary and appropriate, to implement ICCAT recommendations. The authority to issue regulations under the Magnuson-Stevens Act and ATCA