

extend more than 24 inches (61 cm) past the posterior edge of the grid (Figure 16 to this part). Each panel may be sewn down the entire length of the outside edge of each panel. Paragraph (d)(3) of this section notwithstanding, this flap may be installed on either the outside or inside of the TED extension. For interior installation, the flap may be sewn to the interior of the TED extension along the leading edge and sides to a point intersecting the TED frame; however, the flap must be sewn to the exterior of the TED extension from the point at which it intersects the TED frame to the trailing edge of the flap. Chafing webbing described in paragraph (d)(4) of this section may not be used with this type of flap.

\* \* \* \* \*

(v) *Small turtle TED flap.* If the angle of the deflector bars of a bent bar TED used by a skimmer trawl, pusher-head trawl, or wing net exceeds 45°, or if a double cover opening straight bar TED (at any allowable angle) is used by a skimmer trawl, pusher-head trawl, or wing net, the flap must not consist of twine size greater than number 15 (1.32-mm thick) on webbing flaps described in paragraphs (d)(3)(i), (d)(3)(ii), (d)(3)(iii), or (d)(3)(iv) of this section.

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 622

[Docket No. 160906822-6999-01]

RIN 0648-BG33

#### Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery of the South Atlantic Region; Amendment 37

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

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

**SUMMARY:** NMFS proposes to implement management measures described in Amendment 37 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP), as prepared and submitted by the South Atlantic Fishery Management Council (South Atlantic Council). If implemented, this proposed rule would modify the management unit

boundaries for hogfish in the South Atlantic by establishing two hogfish stocks, a Georgia through North Carolina (GA/NC) stock and a Florida Keys/East Florida (FLK/EFL) stock; establish a rebuilding plan for the FLK/EFL hogfish stock; specify fishing levels and accountability measures (AMs), and modify or establish management measures for the GA/NC and FLK/EFL stocks of hogfish. The purpose of this proposed rule is to manage hogfish using the best scientific information available while ending overfishing and rebuilding the FLK/EFL hogfish stock.

**DATES:** Written comments must be received by January 17, 2017.

**ADDRESSES:** You may submit comments on the proposed rule, identified by “NOAA-NMFS-2016-0068” by either of the following methods:

- *Electronic Submission:* Submit all electronic comments via the Federal e-Rulemaking Portal. Go to [www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2016-0068](http://www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2016-0068), click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit all written comments to Nikhil Mehta, NMFS Southeast Regional Office (SERO), 263 13th Avenue South, St. Petersburg, FL 33701.

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

Electronic copies of Amendment 37 may be obtained from [www.regulations.gov](http://www.regulations.gov) or the SERO Web site at <http://sero.nmfs.noaa.gov>. Amendment 37 includes a final environmental impact statement, initial regulatory flexibility analysis (IRFA), regulatory impact review, and fishery impact statement.

**FOR FURTHER INFORMATION CONTACT:** Nikhil Mehta, NMFS SERO, telephone: 727-824-5305, or email: [nikhil.mehta@noaa.gov](mailto:nikhil.mehta@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The snapper-grouper fishery in the South Atlantic includes hogfish and is managed under the FMP. The FMP was prepared by the South Atlantic Council

and is implemented by NMFS through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

### Background

The Magnuson-Stevens Act requires that NMFS and regional fishery management councils prevent overfishing and achieve, on a continuing basis, the optimum yield (OY) from federally managed fish stocks. These mandates are intended to ensure that fishery resources are managed for the greatest overall benefit to the nation, particularly with respect to providing food production and recreational opportunities, and protecting marine ecosystems. To further this goal, the Magnuson-Stevens Act requires fishery managers to minimize bycatch and bycatch mortality to the extent practicable.

Currently, hogfish is managed under the FMP as a single stock in the South Atlantic from the jurisdictional boundary between the South Atlantic Council and Gulf of Mexico Fishery Management Council (Gulf Council) (approximately the Florida Keys) to a line extending seaward from the North Carolina and Virginia state border. The current stock status determination criteria, such as maximum sustainable yield (MSY) and minimum stock size threshold (MSST), annual catch limits (ACLs), recreational annual catch targets (ACTs), AMs, and management measures in the FMP, are established for a single stock of hogfish for the South Atlantic region. The most recent stock assessment for hogfish was completed in 2014 through the Southeast Data, Assessment, and Review process (SEDAR 37). SEDAR 37 identified two separate stocks of hogfish in the South Atlantic region under the jurisdiction of the South Atlantic Council, and one stock of hogfish in the Gulf of Mexico (Gulf) under the jurisdiction of the Gulf Council. In the South Atlantic region, one stock of hogfish was identified to exist off North Carolina, South Carolina, and Georgia; and a separate stock of hogfish was identified to exist off the Florida Keys and east Florida. The South Atlantic Council’s Scientific and Statistical Committee (SSC) did not consider the SEDAR 37 results for the GA/NC stock as sufficient to determine stock status and inform South Atlantic Council management decisions, and the South Atlantic Council concurred. NMFS agreed and determined that the overfishing and overfished status determination of the GA/NC stock is unknown. The SSC did consider the SEDAR 37 results as sufficient to

determine the stock status and inform management decisions for the FLK/EFL stock, and the South Atlantic Council concurred. NMFS agreed and determined that the FLK/EFL stock is currently undergoing overfishing and is overfished. Based on SEDAR 37, NMFS also determined that the West Florida hogfish stock in the Gulf, which occurs off the west coast of Florida to Texas, is neither overfished, nor undergoing overfishing. NMFS notified the South Atlantic Council of these stock status determinations via letter on February 17, 2015.

#### Management Measures Contained in This Proposed Rule

This proposed rule would revise the hogfish fishery management unit in the FMP by establishing two hogfish stocks, one in Federal waters off Georgia through North Carolina and one in Federal waters off the Florida Keys and east Florida; specify ACLs and AMs; and modify or establish management measures for the GA/NC and FLK/EFL stocks of hogfish. All weights of hogfish are described in round weight.

#### *Fishery Management Unit for Hogfish*

Currently, hogfish is managed as a single stock in Federal waters in the South Atlantic region from the jurisdictional boundary between the South Atlantic and Gulf Councils to the North Carolina and Virginia state border. This proposed rule would establish new stock boundaries and create two stocks of hogfish in Federal waters under the jurisdiction of the South Atlantic Council. The first stock would be the GA/NC stock, with a southern boundary extending from the Florida and Georgia state border extending northward to the North Carolina and Virginia state border. The second stock would be the FLK/EFL hogfish stock, with a southern boundary extending from 25°09' N. lat. near Cape Sable on the west coast of Florida. The management area would extend south and east around the Florida Keys and have a northern border extending from the Florida and Georgia state border.

The Gulf Council has approved Amendment 43 to the FMP for the Reef Fish Resources of the Gulf, and has selected the same boundary near Cape Sable on the west coast of Florida to separate the FLK/EFL hogfish stock from the West Florida hogfish stock. In accordance with section 304(f) of the Magnuson-Stevens Act, the Gulf Council requested that the Secretary of Commerce designate the South Atlantic Council as the responsible Council for management of the FLK/EFL hogfish stock in Gulf Federal waters south of

25°09' N. lat. near Cape Sable on the west coast of Florida. On November 23, 2016, NMFS published a proposed rule in the **Federal Register** to implement Amendment 43 (81 FR 84538, November 23, 2016). If NMFS implements Amendment 43, the Gulf Council would continue to manage hogfish in Federal waters in the Gulf (the West Florida hogfish stock), except in Federal waters south of this boundary. Therefore, the South Atlantic Council, and not the Gulf Council, would establish the management measures for the entire range of the FLK/EFL hogfish stock, including in Federal waters south of 25°09' N. lat. near Cape Sable in the Gulf. Vessels fishing for hogfish in Gulf Federal waters, *i.e.*, north and west of the jurisdictional boundary between the Gulf and South Atlantic Councils (approximately at the Florida Keys), as defined at 50 CFR 600.105(c), would still be required to have the appropriate Federal Gulf reef fish permits, and vessels fishing for hogfish in South Atlantic Federal waters, *i.e.*, south and east of the jurisdictional boundary, would still be required to have the appropriate Federal South Atlantic snapper-grouper permits. Federal permit holders would still be required to follow the sale and reporting requirements associated with the respective permits.

As described in Amendment 37, the proposed stock boundary near Cape Sable, Florida, would aid law enforcement personnel, because it coincides with an existing State of Florida management boundary for certain state-managed species, and it would simplify regulations across adjacent state and Federal management jurisdictions. NMFS specifically seeks public comment regarding the revised stock boundaries and the manner in which the Councils would have jurisdiction over these stocks if both Amendment 37 for the South Atlantic Council and Amendment 43 for the Gulf Council are approved and implemented. NMFS published notices of availability in the **Federal Register**, seeking comments on Amendment 37 and Amendment 43, on October 7, 2016, and November 4, 2016, respectively (81 FR 69774 and 81 FR 76908). On November 23, 2016, NMFS published a proposed rule to implement Amendment 43 in the **Federal Register** that also solicited public comment (81 FR 84538, November 23, 2016).

#### *ACLs and OY for the GA/NC and FLK/EFL Hogfish Stocks*

Currently, the total acceptable biological catch (ABC) for the single hogfish stock (equal to ACL and OY) in

the FMP is 134,824 lb (61,155 kg), with a commercial ACL sector allocation (36.69 percent) of 49,469 lb (22,439 kg), and recreational ACL sector allocation (63.31 percent) of 85,355 lb (38,716 kg). Because SEDAR 37 was not deemed sufficient to specify an ABC recommendation for the GA/NC stock of hogfish, the SSC applied Level 4 of the South Atlantic Council's ABC control rule to arrive at their ABC recommendation for this stock. Level 4 is appropriate for unassessed stocks with only reliable catch data, and involves selection of a "catch statistic," a scalar to describe the risk of overexploitation for the stock, and a scalar to describe the management risk level. Amendment 29 updated the South Atlantic Council's ABC control rule, including Level 4 for unassessed stocks (80 FR 30947, June 1, 2015). The SSC provides the first two criteria for each stock, and the South Atlantic Council specifies their management risk level for each stock. For the GA/NC hogfish stock, this proposed rule and Amendment 37 would specify an ABC of 35,716 lb (16,201 kg), a total ACL and OY (equal to 95 percent of the ABC) of 33,930 lb (15,390 kg), and commercial and recreational ACLs based on recalculated sector allocations of 69.13 percent to the commercial sector and 30.87 percent to the recreational sector. It was necessary to re-calculate the sector allocations based on the existing formula from the South Atlantic Council's Comprehensive ACL Amendment (77 FR 15916, March 16, 2012), to reflect the appropriate landings for each sector from the relevant geographic region of the new stock. Through this proposed rule, the commercial ACL would be 23,456 lb (10,639 kg) and the recreational ACL would be 988 fish. For the GA/NC stock of hogfish, the South Atlantic Council decided to specify the ABC, total ACL, and commercial ACL in pounds and the recreational ACL in numbers of fish. Commercial landings are already tracked in pounds while recreational landings are tracked in numbers of fish. Additionally, because Amendment 37 also considers changing the minimum size limit for this stock of hogfish, specifying the recreational ACL in pounds could potentially increase the risk of exceeding the ABC in pounds because larger fish are heavier. Therefore, the South Atlantic Council determined that there would be a lower risk of exceeding the recreational ACL due to an increase in the minimum size limit if the recreational ACL were to be specified in numbers of fish.

The SSC considered the SEDAR 37 results sufficient to provide an ABC recommendation for the FLK/EFL stock of hogfish, and the South Atlantic Council concurred with their recommendation. The ABC for the FLK/EFL stock is derived from projections in SEDAR 37, and the projections were provided in both pounds and numbers of fish. The South Atlantic Council determined that for this stock of hogfish, it was more appropriate to specify the ABC, total ACL, and recreational ACL in numbers of fish, and the commercial ACL in pounds (since recreational landings are tracked in numbers of fish and commercial landings are tracked in pounds). Therefore, Amendment 37 would specify an ABC of 17,930 fish for this stock, which would increase annually through 2027 when the ABC would be 63,295 fish. The total ACL and OY would be equal to 95 percent of the ABC, and the commercial and recreational ACLs would be based on re-calculated sector allocations of 9.63 percent to the commercial sector and 90.37 percent to the recreational sector. As discussed above, the re-calculated sector allocations are based on the South Atlantic Council's existing allocation formula and are necessary to reflect the appropriate landings for each sector from the relevant geographic region of the new stock. In 2017, the total ACL (and OY) would be 17,034 fish, the commercial ACL would be 3,510 lb (1,592 kg), and the recreational ACL would be 15,689 fish and would increase annually through 2027 as the stock rebuilds. In 2027, the total ACL (and OY) for the FLK/EFL hogfish stock would be 60,130 fish, the commercial ACL would be 17,018 lb (7,719 kg), and recreational ACL would be 53,610 fish.

*AMs for the Commercial and Recreational Sectors for Both the GA/NC and FLK/EFL Hogfish Stocks*

The current South Atlantic commercial AMs for the single hogfish stock consist of an in-season closure of the commercial sector if the commercial ACL is met or projected to be met. If the commercial ACL is exceeded, a post-season AM would reduce the commercial ACL by the amount of the commercial ACL overage during the following fishing year if the total ACL (commercial ACL plus recreational ACL) is also exceeded and hogfish are overfished. This proposed rule would retain the current South Atlantic in-season and post-season AMs for the commercial sector, as specified in 50 CFR 622.193(u)(1), and apply them to both the GA/NC and FLK/EFL hogfish stocks.

The current South Atlantic recreational AMs for the single hogfish stock consist of an in-season closure of the recreational sector if the recreational ACL is met or is projected to be met. If the recreational ACL is exceeded, then during the following fishing year, NMFS will monitor for a persistence in increased landings. The post-season AM would reduce the length of the recreational season and the recreational ACL by the amount of the recreational ACL overage if the total ACL is also exceeded and hogfish are overfished. This proposed rule would retain the current South Atlantic recreational AMs, as specified in 50 CFR 622.193(u)(2), and apply them to both the GA/NC and FLK/EFL hogfish stocks.

*Minimum Size Limits for the GA/NC and FLK/EFL Hogfish Stocks*

The current minimum size limit for the single hogfish stock in the South Atlantic is 12 inches (30.5 cm), fork length (FL), for both the commercial and recreational sectors. For both the commercial and recreational sectors, this proposed rule would increase the minimum size limit to 17 inches (43.2 cm), FL, for the GA/NC hogfish stock, and 16 inches (40.6 cm), FL, for the FLK/EFL hogfish stock. Hogfish are protogynous: Fish mature as females first and are expected to eventually become male if they live long enough; they are pair spawners; and they form harems. The number and gender of hogfish in a local group influences the size and age range at which sexual transition occurs. Considering these life history characteristics, the South Atlantic Council determined these proposed minimum size limits could serve as a precautionary approach to address population stability for hogfish off Georgia through North Carolina, and reduce disruption to spawning, avoid recruitment overfishing, and benefit the spawning populations off the Florida Keys and east Florida.

*Commercial Trip Limit for the GA/NC and FLK/EFL Hogfish Stocks*

Currently, there is no commercial trip limit for hogfish in the South Atlantic. This proposed rule would establish a commercial trip limit of 500 lb (227 kg) for the GA/NC stock, and 25 lb (11 kg) for the FLK/EFL stock. As described in Amendment 37, few commercial fishermen catch more than 500 lb (227 kg) of hogfish per trip off Georgia through North Carolina, and the proposed commercial ACL is not expected to be met. However, the South Atlantic Council is concerned that commercial fishermen may shift effort from the FLK/EFL stock to the GA/NC

stock because of the proposed restrictions to the FLK/EFL stock. Therefore, the South Atlantic Council proposed a 500-lb (227-kg) commercial trip limit for the GA/NC stock to enable commercial harvest in that geographic area to take place year-round. Furthermore, as described in Amendment 37, the majority of commercial fishermen landed 25 lb (11 kg) or less of hogfish per trip off the Florida Keys and east Florida area. The South Atlantic Council determined that implementing a commercial trip limit of 25 lb (11 kg) for the FLK/EFL hogfish stock would restrict harvest and help to prevent a commercial in-season closure.

*Recreational Bag Limits for the GA/NC and FLK/EFL Hogfish Stocks*

The current recreational bag limit for hogfish in the South Atlantic is five fish per person per day in Federal waters off Florida, with no recreational bag limit in Federal waters off Georgia, South Carolina, and North Carolina. This proposed rule would set a recreational bag limit of one fish per person per day in Federal waters off the Florida Keys and east coast of Florida, and a recreational bag limit of two fish per person per day in Federal waters off Georgia through North Carolina. The South Atlantic Council determined that these bag limits would reduce harvest and help to prevent a recreational in-season closure.

*Recreational Fishing Season for the FLK/EFL Hogfish Stock*

Currently, hogfish is available for the recreational sector to harvest year-round, as long as the recreational ACL has not been met. This proposed rule would establish a recreational fishing season from May through October for the FLK/EFL hogfish stock, with recreational harvest prohibited from January through April and from November through December each year. As described in Amendment 37, hogfish spawning activity occurs predominantly during the months of December through April, and begins (and ends) slightly earlier in the Florida Keys than on the West Florida shelf (e.g., from the Florida panhandle south along the west coast of Florida to Naples, Florida). Analysis in Amendment 37 showed that based on the proposed recreational ACLs, minimum size limits, and recreational bag limits, a recreational fishing season that is open for 6 months would help constrain recreational landings below the recreational ACL for the FLK/EFL hogfish stock. The South Atlantic Council determined that specifying a May through October fishing season would protect the overfished FLK/EFL

hogfish stock during the peak spawning season, and the proposed ACLs and AMs would help ensure overfishing does not occur. The South Atlantic Council decided not to establish a recreational fishing season for the GA/NC hogfish stock because that stock does not seem to be experiencing heavy fishing pressure, and the average recreational landings in recent years have been well below the proposed recreational ACL.

#### **Management Measures Contained in Amendment 37 But Not Codified Through This Proposed Rule**

In addition to the management measures that this proposed rule would implement, Amendment 37 includes actions to specify fishing levels and recreational ACTs for the GA/NC and FLK/EFL hogfish stocks, and establish a rebuilding plan for the FLK/EFL hogfish stock.

#### *MSY and MSST for the GA/NC and FLK/EFL Hogfish Stocks*

Currently, MSY for the single hogfish stock in the South Atlantic is the yield produced by the fishing mortality rate at MSY ( $F_{MSY}$ ) or the  $F_{MSY}$  proxy, and MSST is equal to the spawning stock biomass at MSY ( $SSB_{MSY}$ ) \* (1-M) or 0.5, whichever is greater (where M equals natural mortality). However, MSY and MSST values for the single hogfish stock are unknown because hogfish were unassessed until recently. Amendment 37 would specify the MSY for the GA/NC and FLK/EFL stocks of hogfish as equal to the yield produced by  $F_{MSY}$  or the  $F_{MSY}$  proxy, with the MSY and  $F_{MSY}$  proxy recommended by the most recent stock assessment. Based on SEDAR 37, the resulting MSY for the FLK/EFL hogfish stock is 346,095 lb (156,986 kg), and is unknown for the GA/NC hogfish stock. Amendment 37 would specify the MSST for these two stocks of hogfish at 75 percent of  $SSB_{MSY}$ , which results in an unknown MSST value for the GA/NC hogfish stock, and an MSST for the FLK/EFL hogfish stock of 1,725,293 lb (782,580 kg). The proposed MSST for hogfish is consistent with how the South Atlantic Council has defined MSST for other snapper-grouper stocks with low natural mortality estimates, and SEDAR 37 estimated the natural mortality for hogfish at 0.179.

#### *Recreational ACTs for the GA/NC and FLK/EFL Hogfish Stocks*

The recreational ACT for the current hogfish stock is 59,390 lb (26,939 kg). Amendment 37 specifies a recreational ACT (equal to 85 percent of the recreational ACL) of 840 fish for the GA/

NC stock and 13,335 fish for the FLK/EFL stock in 2017. The recreational ACT for the FLK/EFL stock would increase annually from 2017 through 2027 as the stock rebuilds. NMFS notes that the current and proposed recreational ACTs are used only for monitoring and do not trigger an AM.

#### *Rebuilding Plan for the FLK/EFL Hogfish Stock*

Because the FLK/EFL hogfish stock is overfished, Amendment 37 would establish a rebuilding plan that would set the ABC equal to the yield at a constant fishing mortality rate and rebuild the stock in 10 years with a 72.5 percent probability of success. Year 1 of the rebuilding plan would be 2017, and 2027 would be the last year. The South Atlantic Council's SSC indicated that harvest levels proposed in the Amendment 37 rebuilding plan are sustainable and would achieve the goal of rebuilding the FLK/EFL hogfish stock. The ABC for the FLK/EFL hogfish stock would be 17,930 fish in 2017 and would increase annually through 2027 when the ABC would be 63,295 fish.

#### **Additional Proposed Change to Codified Text Not in Amendment 37**

In addition to the measures described for Amendment 37, this final rule would correct an error in Table 1 to § 622.1—FMPs Implemented Under Part 622. In 2013, the final rule for Amendment 27 to the FMP inadvertently removed two footnotes from the entry for the FMP in Table 1 of § 622.1 (78 FR 78770, December 27, 2013). This final rule corrects that error and inserts those footnotes back into the entry for the FMP in Table 1 of § 622.1.

#### **Classification**

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the Assistant Administrator has determined that this proposed rule is consistent with Amendment 37, the FMP, the Magnuson-Stevens Act, and other applicable laws, subject to further consideration after public comment.

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

NMFS prepared an IRFA for this proposed rule, as required by section 603 of the RFA, 5 U.S.C. 603. The IRFA describes the economic impact that this proposed rule, if implemented, would have on small entities. A description of the proposed rule, why it is being considered, and the objectives of and legal basis for this proposed rule are contained at the beginning of this CLASSIFICATION section in the preamble and in the **SUMMARY** section of

the preamble. A copy of the full analysis is available from NMFS (see **ADDRESSES**). A summary of the IRFA follows.

The Magnuson-Stevens Act provides the statutory basis for this proposed rule. No duplicative, overlapping, or conflicting Federal rules have been identified. In addition, no new reporting, record-keeping, or other compliance requirements are introduced by this proposed rule. Accordingly, this proposed rule does not implicate the Paperwork Reduction Act.

This proposed rule, if implemented, would apply to all federally-permitted commercial vessels and recreational anglers that fish for or harvest hogfish in Federal waters of the South Atlantic. It would not directly apply to or regulate charter vessels and headboats (for-hire vessels), since for-hire vessels sell fishing services to recreational anglers and the proposed changes to the hogfish management measures would not directly alter the services sold by these vessels. However, the proposed changes would affect when recreational anglers on for-hire trips are allowed to fish for or retain hogfish, as well as the quantity and size of hogfish that are harvested. Any change in demand for for-hire fishing services, and associated economic effects, as a result of this proposed rule would be a consequence of behavioral change by anglers, secondary to any direct effect on anglers and, therefore, an indirect effect of the proposed rule. Because the effects on for-hire vessels would be indirect, they fall outside the scope of the RFA. For-hire captains and crew are permitted to retain hogfish under the recreational bag limit; however, they are not permitted to sell these fish. As such, for-hire captains and crew are only affected as recreational anglers. The RFA does not consider recreational anglers to be small entities, so they are outside the scope of this analysis, and only the impacts on commercial vessels will be discussed.

As of May 25, 2016, there were 552 valid or renewable Federal South Atlantic snapper-grouper unlimited permits and 116 valid or renewable 225-lb (102-kg) trip-limited permits. Each of these commercial permits is associated with an individual vessel. Data from the years of 2010 through 2014, the most recent data available at the time the analysis was conducted, were used in Amendment 37 and these data provided the basis for the South Atlantic Council's decisions. Although this proposed rule would apply to all commercial snapper-grouper permit holders, it is expected that the vessels that harvest hogfish would most likely be affected. On average from 2010

through 2014, there were 135 federally-permitted commercial fishing vessels with reported landings of hogfish. Their average annual vessel-level revenue from all species for 2010 through 2014 was approximately \$59,000 (2014 dollars). During this period, there were an average of 62 vessels that harvested hogfish in the GA/NC stock area and 77 vessels that harvested hogfish in the FLK/EFL stock area. Their average annual revenue from all species (2010 through 2014) was approximately \$83,000 and \$44,000 (2014 dollars) in the two stock areas, respectively. Some of these vessels reported hogfish landings from both stock areas and are, therefore, included in the vessel counts for both stock areas. The maximum annual revenue for all species reported by a single one of the 135 vessels identified above, in 2014, was approximately \$1 million (2014 dollars).

For RFA purposes only, NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR 200.2). A business primarily engaged in commercial fishing (NAICS code 11411) 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 \$11 million for all its affiliated operations worldwide. All of the commercial vessels directly regulated by this proposed rule are believed to be small entities based on the NMFS size standard.

No other small entities that would be directly affected by this proposed rule have been identified.

There are currently 668 federally-permitted commercial vessels eligible to fish for the snapper-grouper species managed under the FMP. Based on the analysis included in Amendment 37, NMFS expects 135 of these vessels would be affected by this proposed rule (approximately 20 percent). Because all entities expected to be affected by this proposed rule are small entities, NMFS has determined that this proposed rule would affect a substantial number of small entities. Moreover, the issue of disproportionate effects on small versus large entities does not arise in the present case.

This proposed rule would modify the snapper-grouper Fishery Management Unit for hogfish, specifying two stocks of hogfish: (1) A GA/NC stock from the Georgia/Florida state boundary to the North Carolina/Virginia state boundary, and (2) a FLK/EFL stock from the Florida/Georgia state boundary south to a line extending due west from 25°09' N.

lat. just south of Cape Sable on the west coast of Florida. Amendment 37 would also specify MSY and MSST values for each of these stocks. For both the GA/NC and FLK/EFL stocks, MSY would be set equal to the yield produced by  $F_{MSY}$  or the  $F_{MSY}$  proxy ( $F_{30\%SPR}$ ) and MSST would be set equal to 75 percent of  $SSB_{MSY}$ . Specifying separate hogfish stocks, as well as management reference points (MSY and MSST) for those stocks, would not directly alter the current harvest of the hogfish resource. Therefore, these changes would not be expected to have any direct economic effects on any small entities. They would, however, influence other components of this proposed rule that would be expected to have direct economic effects.

This proposed rule would also establish a total ACL of 33,930 lb (15,390 kg), round weight, for the GA/NC stock of hogfish, which is equal to 95 percent of the ABC recommended by the Council's SSC. Using the existing allocation formula specified in the Comprehensive ACL Amendment and landings data specific to the GA/NC stock area, the commercial ACL for the GA/NC stock of hogfish would be set constant at 23,456 lb (10,639 kg). Based on average annual landings for 2012 through 2014 off Georgia through North Carolina, the commercial sector would be expected to land only 20,534 lb (9,314 kg) under the status quo in 2017, with an estimated ex-vessel value of \$76,797 (2014 dollars). Because the proposed commercial ACL is higher than the estimated status quo commercial landings for 2017, it would not be expected to have any short-term direct negative economic effects on commercial vessels. Due to increasing uncertainty as projections extend further into the future, status quo commercial landings estimates for years subsequent to 2017 were not calculated. The proposed commercial ACL would provide the potential for landings to increase by 2,922 lb (1,325 kg) relative to average historical commercial landings (2012 through 2014). Using the average annual hogfish price per pound from 2012 through 2014, this would represent a potential increase in ex-vessel revenue of \$10,928 (2014 dollars) overall. Divided by the average number of commercial vessels that harvested hogfish in the GA/NC stock area from 2010 through 2014, this would be an increase of approximately \$176 per vessel.

In addition, Amendment 37 would establish a rebuilding plan, beginning in 2017, for the FLK/EFL stock, where the rebuilding strategy sets ABC equal to the yield at a constant fishing mortality rate

and rebuilds the stock in 10 years with a 72.5 percent probability of rebuilding success. This proposed rebuilding plan would provide the basis for setting ACLs but would not directly alter the current harvest of the hogfish resource. Therefore, it would not be expected to have direct economic effects on any small entities.

The proposed rule would also establish a total ACL, in numbers of fish, for the FLK/EFL stock of hogfish for 2017 through 2027. The total ACL each year would be set equal to 95 percent of the ABC values specified in the proposed rebuilding plan. In 2017, the total ACL would be 17,034 fish and would increase each year until reaching 60,130 fish in 2027. Using the existing allocation formula specified in the Comprehensive ACL Amendment and landings data specific to the FLK/EFL stock area, the commercial ACL for the FLK/EFL stock of hogfish would be set at 3,510 lb (1,592 kg) in 2017 and would increase each year until reaching 17,018 lb (7,719 kg) in 2027. In Amendment 37, a time series model was fit to historical landings data (1997 through 2014) for the FLK/EFL stock area in order to project commercial landings under the status quo in 2017. The commercial sector would be expected to land an estimated 20,380 lb (9,244 kg) of hogfish under the status quo in 2017, worth \$76,213 (2014 dollars). Due to increasing uncertainty as projections extend further into the future, status quo commercial landings estimates for years subsequent to 2017 were not calculated. Assuming the proposed commercial ACL for FLK/EFL hogfish is harvested in full, it would represent a reduction in ex-vessel revenue of \$63,086 (2014 dollars), or 83 percent, relative to estimated 2017 status quo revenue. This assumes that ex-vessel revenue from other commercially harvested species would not be substituted for the loss in hogfish revenue. Divided by the average number of commercial vessels that harvested hogfish in the FLK/EFL stock area from 2010 through 2014, this would be a decrease of approximately \$819 (2014 dollars) per vessel. It is assumed that ex-vessel revenue from FLK/EFL hogfish will increase relative to the proposed annual increases in the commercial ACL from 2017 through 2027. This would lessen the negative economic effects of this proposed rule on commercial vessels each year.

This proposed rule would increase the commercial minimum size limit for both stocks of hogfish as well. The minimum size limit for the GA/NC stock would be increased from 12 inches (30.5 cm), FL, to 17 inches (43.2 cm), FL, and the minimum size limit for the FLK/EFL

stock would be increased from 12 inches (30.5 cm), FL, to 16 inches (38.1 cm), FL.

The proposed minimum size limit increase for the GA/NC stock was estimated to reduce commercial landings by only 406 lb (184 kg) in 2017. This would translate into a \$1,478 (2014 dollars) reduction in ex-vessel revenue overall, or \$24 per vessel. This assumes that ex-vessel revenue from other species would not be substituted for the loss in hogfish revenue. Under the proposed commercial ACL for GA/NC hogfish, the season would be expected to be open year-round and would not change as a result of the proposed minimum size limit. Assuming effort, harvest rates, and hogfish prices remain constant, then the expected economic effects of the proposed minimum size limit in future years would be equivalent to those of 2017.

For the FLK/EFL stock, the proposed minimum size limit increase would not be expected to reduce aggregate commercial landings or ex-vessel revenue in 2017. This assumes that ex-vessel hogfish prices would be unresponsive to temporal changes in landings. In subsequent years, as the FLK/EFL stock ACL increases, the proposed minimum size limit would be more likely than the status quo minimum size limit to prevent the full harvest of the commercial ACL and result in a reduction in aggregate ex-vessel revenue. Under the proposed minimum size limit of 16 inches (38.1 cm), FL, the 2017 fishing season is expected to be open 35 days longer than under the current minimum size limit of 12 inches (30.5 cm), FL. Because fewer legal-sized fish would be available for harvest, this proposed rule may increase harvest costs, and in turn, reduce profitability for some vessels. Conversely, a longer season for FLK/EFL hogfish may have positive economic effects for other vessels by expanding the number of species available for harvest later in the fishing year. Individual vessels would be expected to experience varying levels of economic effects, depending on their fishing practices, profit maximization strategies, and ability to substitute revenue from other species for hogfish revenue. These economic effects cannot be estimated with available data.

This proposed rule would also establish commercial trip limits for each stock of hogfish. The trip limit would be set at 500 lb (227 kg) per trip for the GA/NC stock and 25 lb (11 kg) per trip for the FLK/EFL stock. Currently, there is no commercial trip limit for hogfish in the South Atlantic.

For the GA/NC stock, the proposed commercial trip limit was estimated to result in a \$4,470 (2014 dollars) decrease in ex-vessel revenue relative to the status quo. This assumes that ex-vessel revenue from other commercially harvested species would not be substituted for the loss in hogfish revenue. Based on historical harvest rates for 2012 through 2014, it is expected that the proposed commercial trip limit of 500 lb (227 kg), round weight, would only affect spearfishing trips. On average (2010 through 2014), there were 11 vessels with Federal commercial snapper-grouper permits that reported taking at least 1 hogfish trip in the GA/NC stock area, where the majority of revenue from that trip was attributed to spearfishing. Their average annual revenue from all species from 2010 through 2014 was \$61,479 (2014 dollars). If the estimated reduction in ex-vessel revenue was borne entirely by these vessels, it would result in a loss of \$406 per vessel, or less than 1 percent of their average annual revenue from all species from 2010 through 2014. When the proposed commercial trip limit and proposed minimum size limit for the GA/NC stock are analyzed together, the combined effect on all vessels that fish for hogfish in the corresponding stock area would be an estimated reduction in aggregate ex-vessel revenue of \$5,741 (2014 dollars).

For the FLK/EFL stock, the proposed commercial trip limit would not be expected to reduce aggregate commercial landings or ex-vessel revenue in 2017. This assumes that prices would not change as a result of a change in the timing of landings. In subsequent years, as the commercial ACL for the FLK/EFL stock increases, the proposed commercial trip limit of 25 lb (11 kg) would be more likely to prevent full harvest of the commercial ACL and result in a reduction in ex-vessel revenue relative to no trip limit. Under the proposed commercial trip limit, the 2017 fishing season is expected to be open 33 days longer than what would be expected under the proposed commercial ACL of 3,510 lb (1,592 kg) and with no commercial trip limit implemented. Because more trips would be required to harvest the same amount of fish, the proposed commercial trip limit could reduce profitability for some vessels. Conversely, a longer commercial fishing season in the FLK/EFL stock area may have positive economic effects for other vessels by expanding the number of species available for harvest later in the fishing year. On average (2010 through 2014), 37 vessels with Federal

commercial snapper-grouper permits took at least 1 trip with hogfish landings in excess of 25 lb (11 kg). Trips with hogfish landings in excess of 25 lb (11 kg) accounted for approximately 28 percent of all hogfish trips reported for the FLK/EFL stock area, on average, from 2010 through 2014. Approximately 66 percent of these were spearfishing trips, 25 percent were trips that used hook-and-line gear, and the remaining 11 percent were trips that used other fishing gear types. Historically (2012 through 2014), 10.1 percent of hogfish landings on hook-and-line trips and approximately 29.4 percent of hogfish landings on spearfishing trips were harvested on trips in excess of the proposed 25 lb (11 kg) commercial trip limit. These statistics suggest that spearfishing trips may be more adversely affected, on average, by the proposed commercial trip limit than hook-and-line trips. However, specific economic effects estimates categorized by fishing gear are not currently available due to the high degree of model uncertainty at the gear level. Individual vessels would be expected to experience varying levels of economic effects, depending on their fishing practices, profit maximization strategies, and ability to substitute other species revenue for hogfish revenue. These economic effects cannot be estimated with available data.

Finally, the proposed rule would establish commercial AMs for the GA/NC and the FLK/EFL stocks of hogfish. These AMs would close the commercial sector for the applicable hogfish stock for the remainder of the fishing year if commercial landings of the applicable stock reach, or are projected to reach, the respective commercial ACL. Additionally, if the commercial ACL is exceeded, NMFS would reduce the stock-specific commercial ACL in the following fishing year by the amount of the commercial ACL overage, only if hogfish is overfished and the total ACL (commercial ACL and recreational ACL) for the respective stock is exceeded. These proposed AMs are the same as the current commercial AMs in place for hogfish in the South Atlantic. It is assumed that the proposed AMs would constrain landings to the proposed commercial ACL for each stock, so no direct economic effects, aside from those already discussed under the proposed ACLs, would be expected to occur. If the proposed AMs do not constrain commercial landings at or below the proposed commercial ACL, then there would be an increase in ex-vessel revenue in the fishing year the AMs are triggered and the commercial

sector closes. Additionally, if the conditions are met for a reduction in the following year's commercial ACL by the amount of the commercial ACL overage, a reduction in ex-vessel revenue in the following fishing year would be expected. The status of the GA/NC stock is currently unknown, so both conditions necessary for a reduction in the following year's commercial ACL would not be met and this provision would only affect the FLK/EFL stock. Because of the timeliness of commercial landings data for federally-permitted vessels, overages and corresponding economic effects would likely be small, should they occur.

In summary, when all of the hogfish management changes in this proposed rule are analyzed together, in 2017 they would result in an estimated reduction in ex-vessel revenue of \$5,741 (2014 dollars) for the vessels that harvest hogfish from the GA/NC stock and \$63,086 for the vessels that harvest hogfish from the FLK/EFL stock. The proposed changes to the minimum size limit and commercial trip limit would also have the potential to reduce profitability by increasing harvest costs, although these economic effects cannot be estimated with available data. In subsequent years, if hogfish landings from the GA/NC stock increase to reach the proposed commercial ACL, the increase in landings would offset the loss in revenue from the proposed minimum size limit and commercial trip limit, and would generate an increase in ex-vessel revenue of \$5,187 (2014 dollars). For the vessels that harvest hogfish from the FLK/EFL stock, it is assumed that ex-vessel revenue from hogfish would increase relative to the proposed annual increases in the commercial ACL from 2017 through 2027. This would lessen the negative economic effects of this proposed rule on commercial vessels each year.

The following discussion describes the alternatives that were not selected as preferred by the South Atlantic Council.

The actions to designate two separate stocks of hogfish in the South Atlantic, set management reference points (MSY and MSST) for those stocks, and establish a rebuilding plan for the FLK/EFL stock of hogfish would not be expected to have any direct economic effects on any small entities, and therefore, the issue of significant alternatives is not relevant.

Two alternatives were considered for the action to specify a stock ACL and OY for the GA/NC stock of hogfish. The first alternative, the no action alternative, would retain the current South Atlantic hogfish stock ACL and would not be expected to alter current

harvest or use of the resource. This alternative was not selected by the South Atlantic Council because it would not adhere to the best scientific information available from the most recent hogfish stock assessment. The second alternative is the preferred alternative, which would establish a stock ACL specific to the GA/NC stock of hogfish. This alternative includes three sub-alternatives. The first sub-alternative would set the ACL equal to optimum yield (OY), where OY equals acceptable biological catch (ABC). This sub-alternative would result in a commercial ACL for the GA/NC hogfish stock of 24,690 lb (11,199 kg), round weight, which is approximately 5 percent greater than the proposed commercial ACL. Because status quo landings are not expected to exceed any of the sub-alternative commercial ACL values in the short term, the first sub-alternative would not be expected to have any direct economic effects. However, it would allow for greater potential landings and ex-vessel revenue in the future compared to the preferred alternative in this proposed rule. The first sub-alternative was not selected as preferred by the South Atlantic Council, because the Council determined it was prudent to include a buffer in the stock ACL to account for management uncertainty. The second sub-alternative is the preferred sub-alternative in this proposed rule and would set the stock ACL equal to OY, where OY equals 95 percent of ABC. The third sub-alternative would set the stock ACL equal to OY, where OY equals 90 percent of ABC. This sub-alternative would result in a stock ACL that is approximately 5 percent less than the proposed stock ACL. Based on projected landings for 2017, this would not be expected to have direct economic effects on small entities; however, the potential for future increases in ex-vessel revenue would be less than under this proposed rule. Because allowable harvest and potential ex-vessel revenue would be lower than that under the preferred alternative, this alternative was not selected by the South Atlantic Council.

Two alternatives were considered for the action to specify commercial and recreational ACLs and OY for the FLK/EFL stock of hogfish. The first alternative, the no action alternative, would retain the current South Atlantic hogfish stock ACL and would not be expected to alter current harvest or use of the resource. This alternative was not selected by the South Atlantic Council, because it would not adhere to the best scientific information available from the

most recent hogfish stock assessment. The second alternative is the preferred alternative, which would establish commercial and recreational ACLs specific to the FLK/EFL stock of hogfish. This alternative includes three sub-alternatives. The first sub-alternative would set the ACL equal to OY, where OY equals ABC. The commercial hogfish ACL for the FLK/EFL stock would be 3,695 lb (1,676 kg) in 2017 and would increase annually up to 17,914 lb (8,126 kg) in 2027. Under the first sub-alternative, the commercial ACL would be approximately 5 percent greater each year than under the preferred sub-alternative. Assuming the entire commercial ACL is harvested annually, hogfish landings and ex-vessel revenue would also be 5 percent greater under the first sub-alternative than under the preferred sub-alternative. As such, the first sub-alternative would be expected to have less negative economic effects on small entities than this proposed rule. However, it was not selected as preferred by the South Atlantic Council, because they determined it was prudent to include a buffer in the stock ACL to account for management uncertainty. The second sub-alternative is the preferred sub-alternative, which would set the stock ACL equal to OY, where OY equals 95 percent of ABC. The third sub-alternative would set the stock ACL equal to OY, where OY equals 90 percent of ABC. This sub-alternative would result in commercial and recreational ACLs that are approximately 5 percent less each year than under the second (preferred) sub-alternative in this proposed rule and, therefore, would be expected to have more direct negative economic effects on small entities than this proposed rule. Because allowable harvest and expected ex-vessel revenue would be lower than that under the preferred alternative, this alternative was not selected by the South Atlantic Council.

Three alternatives were considered for the action to increase the commercial and recreational minimum size limits for the GA/NC and FLK/EFL stocks of hogfish. The first alternative, the no action alternative, would retain the current South Atlantic hogfish minimum size limit of 12 inches (30.5 cm), FL, for both sectors. This would not be expected to alter commercial harvest rates relative to the status quo, so no direct economic effects to small entities would be expected to occur. This alternative was not selected by the South Atlantic Council, because it would fail to acknowledge important biological differences between the two

stocks of hogfish, as well as stock-specific management needs.

The second alternative, which was selected as preferred, would increase the commercial and recreational minimum size limit for the GA/NC stock. The second alternative contains six sub-alternatives. The first sub-alternative would increase the minimum size limit from 12 inches (30.5 cm), FL, to 16 inches (38.1 cm), FL. This would be expected to result in an annual reduction in commercial ex-vessel revenue of only \$479 (2014 dollars), which is \$1,041 less than the reduction expected under the proposed minimum size limit. This sub-alternative was not selected as preferred because it would be expected to result in fewer hogfish reaching sexual maturity, fewer hogfish transitioning to males, and more negative biological effects than the proposed minimum size limit. The second sub-alternative is the preferred sub-alternative, which would set the commercial and recreational minimum size limit for the GA/NC stock at 17 inches (43.2 cm), FL. The third through the fifth sub-alternatives would set the commercial and recreational minimum size limit at 18, 19, and 20 inches (45.7, 48.3, and 50.8 cm), FL, respectively. These sub-alternatives were not selected because they would be expected to result in a greater decrease in commercial ex-vessel revenue than the proposed minimum size limit. The sixth sub-alternative would set the commercial and recreational minimum size limit at 15 inches (38.1 cm), FL, in the first year of implementation, 18 inches (45.8 cm), FL, in the second year, and 20 inches (50.8 cm), FL, in the third year. This sub-alternative would be expected to have a smaller direct negative economic effect on small entities than the proposed minimum size limit in the first year of implementation only, and a larger direct negative economic effect thereafter. The sixth sub-alternative was not selected by the South Atlantic Council, because there was little public support for step-up size limit increases, and it would not aid in simplifying regulations.

The third alternative, also selected as preferred, would increase the commercial and recreational minimum size limit for the FLK/EFL stock. The third alternative contains five sub-alternatives. The first and second sub-alternatives would increase the commercial and recreational minimum size limit to 14 and 15 inches (35.6 and 38.1 cm), FL, respectively. These sub-alternatives would not be expected to affect aggregate ex-vessel revenue in the short-term; however, by allowing for

potentially higher catch rates, they would be less likely to negatively affect profitability than the proposed minimum size limit. The specific effects on profitability cannot be estimated with available data. These sub-alternatives were not selected by the South Atlantic Council, because they would be expected to result in fewer hogfish reaching sexual maturity, fewer hogfish transitioning to males, and more negative biological effects than the proposed minimum size limit. The third sub-alternative is the preferred sub-alternative, which would increase the commercial and recreational minimum size limit to 16 inches (38.1 cm), FL. The fourth sub-alternative would increase the minimum size limit to 17 inches (43.2 cm), FL, which would be more likely to negatively affect profitability than the proposed minimum size limit and, therefore, was not selected as preferred. The fifth sub-alternative would set the commercial and recreational minimum size limit at 14 inches (35.6 cm), FL, in the first year of implementation and 16 inches (38.1 cm), FL, in the third year. This sub-alternative would provide for a more gradual increase in the minimum size limit up to 16 inches (38.1 cm), FL, which would be expected to have less negative economic effects than the proposed minimum size limit in the first year of implementation and equivalent effects in the third year and beyond. The fifth sub-alternative was not selected by the Council, because it would have less immediate biological benefits to the FLK/EFL hogfish stock, which is currently overfished.

Three alternatives were considered for the action to establish commercial trip limits for the GA/NC and FLK/EFL stocks of hogfish. Under the first alternative, the no action alternative, there would be no commercial trip limit specified for either stock. This would not be expected to alter commercial harvest rates relative to the status quo, so no direct economic effects to small entities would be expected to occur. This alternative was not selected by the South Atlantic Council, because they decided it was necessary to implement stock-specific commercial trip limits in order to successfully constrain commercial hogfish landings and to end overfishing of the FLK/EFL stock.

The second alternative, which was selected as preferred, would establish a commercial trip limit for the GA/NC stock. The second alternative contains five sub-alternatives. The first and second sub-alternatives would set the commercial trip limit at 100 lb (45 kg) and 250 lb (113 kg), respectively, which would be expected to reduce aggregate

annual landings and ex-vessel revenue by 43 percent and 19 percent, respectively. These reductions in ex-vessel revenue would be larger than what would be expected under the proposed commercial trip limit and, thus, the first and second sub-alternatives were not selected. The third sub-alternative was selected as preferred and would set the commercial trip limit at 500 lb (227 kg), which was estimated to reduce ex-vessel revenue by 6 percent. The fourth sub-alternative would set the commercial trip limit at 700 lb (318 kg). This sub-alternative would be expected to reduce ex-vessel revenue by only 3 percent, which would translate into \$2,287 (2014 dollars) more in aggregate ex-vessel revenue than under the proposed trip limit. The fifth sub-alternative would not specify a commercial trip limit, which would be expected to have no effect on status quo hogfish landings or ex-vessel revenue. Under the fifth sub-alternative, ex-vessel revenue would be \$4,470 (2014 dollars) greater than what would be expected under the proposed trip limit. The fourth and fifth sub-alternatives were not selected as preferred because the South Atlantic Council chose to take a precautionary approach to setting the commercial trip limit for the GA/NC stock in order to prevent effort shifts as a result of stricter commercial regulations needed to end overfishing of the FLK/EFL stock. Additionally, the vast majority of commercial trips in Georgia and the Carolinas do not land more than 500 lb (227 kg) of hogfish per trip.

The third alternative, also selected as preferred, would establish a commercial trip limit for the FLK/EFL stock. The third alternative contains six sub-alternatives. The first sub-alternative was selected as preferred and would set the commercial trip limit at 25 lb (11 kg). Sub-alternatives 2 through 5 would set the commercial trip limit at 50 lb (23 kg), 100 lb (45 kg), 150 lb (68 kg), and 200 lb (91 kg), respectively. The sixth sub-alternative would not specify a commercial trip limit. These sub-alternatives for commercial trip limits would not be expected to affect aggregate ex-vessel revenue in the short term, given the low proposed commercial ACL. However, for each incremental increase in the commercial trip limit, the likelihood of direct negative effects on profitability would be reduced. Because of the proposed increasing commercial ACL schedule, sub-alternatives 2 through 5 may provide for greater aggregate annual ex-vessel hogfish revenue and increased profitability on hogfish trips in the

medium to long term, relative to the proposed commercial trip limit. These economic effects cannot be estimated with available data. However, sub-alternatives 2 through 6 were not selected by the South Atlantic Council because, given the overfished status of the stock, the South Atlantic Council wanted to be conservative in setting the commercial trip limit in order to end overfishing and prevent commercial ACL overages.

Four alternatives were considered for the action to establish commercial and recreational AMs for the GA/NC and the FLK/EFL stocks of hogfish. The first alternative, the no action alternative, would retain the current South Atlantic hogfish AMs for both sectors. This alternative was not selected by the South Atlantic Council because stock-specific AMs would be required to ensure landings are constrained to the

commercial ACL for each stock. The second alternative was selected as preferred and would specify commercial AMs for each stock that are equivalent to the existing AMs for the single South Atlantic stock. The third and fourth alternatives pertain exclusively to recreational anglers and therefore no direct economic effects on any small entities would be expected.

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

Commercial, Fisheries, Fishing, Gulf of Mexico, Hogfish, Recreational, South Atlantic.

Dated: December 12, 2016.

**Samuel D. Rauch III,**

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

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

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

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

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

■ 2. In § 622.1, revise the Table 1 entry for “FMP for the Snapper-Grouper Fishery of the South Atlantic Region”, and add footnote 8 to Table 1 to read as follows:

#### § 622.1 Purpose and scope.

\* \* \* \* \*

TABLE 1 TO § 622.1—FMPs IMPLEMENTED UNDER PART 622

| FMP title                                                              | Responsible fishery management council(s) | Geographic area                    |
|------------------------------------------------------------------------|-------------------------------------------|------------------------------------|
| * * * * *                                                              | * * * * *                                 | * * * * *                          |
| FMP for the Snapper-Grouper Fishery of the South Atlantic Region ..... | SAFMC .....                               | South Atlantic. <sup>1 2 6 8</sup> |
| * * * * *                                                              | * * * * *                                 | * * * * *                          |

<sup>1</sup> Regulated area includes adjoining state waters for purposes of data collection and quota monitoring.

<sup>2</sup> Black sea bass and scup are not managed by the FMP or regulated by this part north of 35°15.9' N. lat., the latitude of Cape Hatteras Light, NC.

<sup>6</sup> Nassau grouper in the South Atlantic EEZ and the Gulf EEZ are managed under the FMP.

<sup>8</sup> Hogfish in the Gulf EEZ are managed under the FMP from the South Atlantic and Gulf of Mexico intercouncil boundary specified in § 600.105(c) and south of 25°09' N. lat. off the west coast of Florida. Hogfish in the remainder of the Gulf EEZ are managed under the FMP for the Reef Fish Resources of the Gulf of Mexico.

■ 3. In § 622.183, add paragraph (b)(4) to read as follows:

#### § 622.183 Area and seasonal closures.

\* \* \* \* \*

(b) \* \* \*

(4) Hogfish recreational sector off the Florida Keys and east coast of Florida. From January through April and from November through December each year, the recreational harvest or possession of hogfish in or from the South Atlantic EEZ off the Florida Keys and east coast of Florida, and in the Gulf EEZ south of 25°09' N. lat. off the west coast of Florida is prohibited, and the bag and possession limits are zero.

\* \* \* \* \*

■ 4. In § 622.185, revise paragraph (c)(3) to read as follows:

#### § 622.185 Size limits.

\* \* \* \* \*

(c) \* \* \*

(3) *Hogfish.* (i) In the South Atlantic EEZ off Georgia, South Carolina, and

North Carolina—17 inches (43.2 cm), fork length.

(ii) In the South Atlantic EEZ off the Florida Keys and east coast of Florida, and in the Gulf EEZ south of 25°09' N. lat. off the west coast of Florida—16 inches (38.1 cm), fork length.

\* \* \* \* \*

■ 5. In § 622.187, revise paragraph (b)(3) to read as follows:

#### § 622.187 Bag and possession limits.

\* \* \* \* \*

(b) \* \* \*

(3) *Hogfish.* (i) In the South Atlantic EEZ off Georgia, South Carolina, and North Carolina—2.

(ii) In the South Atlantic EEZ off the Florida Keys and east coast of Florida, and in the Gulf EEZ south of 25°09' N. lat. off the west coast of Florida—1.

\* \* \* \* \*

■ 6. In § 622.191, add paragraph (a)(12) to read as follows:

#### § 622.191 Commercial trip limits.

\* \* \* \* \*

(a) \* \* \*

(12) *Hogfish.* (i) Until the commercial ACL specified in § 622.193(u)(1)(iii)(A) is reached or is projected to be reached off Georgia, South Carolina, and North Carolina, 500 lb (227 kg), round weight.

(ii) Until the commercial ACL specified in § 622.193(u)(2)(iii)(A) is reached or is projected to be reached off the Florida Keys and east coast of Florida, and south of 25°09' N. lat. off the west coast of Florida, 25 lb (11 kg), round weight.

(iii) See § 622.193(u)(1)(i) or (2)(i) for the limitations regarding hogfish after a commercial ACL is reached.

\* \* \* \* \*

■ 7. In § 622.193, revise paragraph (u) to read as follows:

#### § 622.193 Annual catch limits (ACLs), annual catch targets (ACTs), and accountability measures (AMs).

\* \* \* \* \*

(u) *Hogfish*—(1) *Hogfish off Georgia, South Carolina, and North Carolina (Georgia-North Carolina)*—(i)

*Commercial sector.* (A) If commercial landings for the Georgia-North Carolina hogfish stock, as estimated by the SRD, reach or are projected to reach the commercial ACL specified in paragraph (u)(1)(iii)(A) 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 hogfish in or from the South Atlantic EEZ off Georgia, South Carolina, and North Carolina is prohibited, and harvest or possession of this species is limited to the bag and possession limits. These bag and possession limits apply to the Georgia-North Carolina hogfish stock on board a vessel for which a valid Federal commercial or 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 for the Georgia-North Carolina hogfish stock, as estimated by the SRD, exceed the commercial ACL specified in paragraph (u)(1)(iii)(A) of this section, and the combined commercial and recreational ACL specified in paragraph (u)(1)(iii)(C) of this section is exceeded during the same fishing year, and the Georgia-North Carolina hogfish stock is overfished based on the most recent Status of U.S. Fisheries Report to Congress, the AA will file a notification with the Office of the Federal Register to reduce the commercial ACL for the stock in the following fishing year by the amount of the commercial ACL overage in the prior fishing year.

(ii) *Recreational sector.* (A) If recreational landings for the Georgia-North Carolina hogfish stock, as estimated by the SRD, reach or are projected to reach the recreational ACL specified in paragraph (u)(1)(iii)(B) 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 regardless if the stock is overfished, unless NMFS determines that no closure is necessary based on the best scientific information available. On and after the effective date of such a notification, the bag and possession limits for hogfish in or from the South Atlantic EEZ off Georgia, South Carolina, and North Carolina are zero.

(B) If recreational landings for the Georgia-North Carolina hogfish stock, as estimated by the SRD, exceed the recreational ACL specified in paragraph

(u)(1)(iii)(B) of this section, then during the following fishing year recreational landings will be monitored for a persistence in increased landings. If necessary, the AA will file a notification with the Office of the Federal Register to reduce the length of the following recreational fishing season and recreational ACL in the following fishing year by the amount of the recreational ACL overage if the Georgia-North Carolina hogfish stock is overfished, based on the most recent Status of U.S. Fisheries Report to Congress, and the combined commercial and recreational ACL is exceeded during the same fishing year to ensure recreational landings do not exceed the recreational ACL in the following fishing year. NMFS will use the best scientific information available to determine if reducing the length of the recreational fishing season and recreational ACL is necessary. When a recreational sector is closed as a result of NMFS reducing the length of the following recreational fishing season and ACL, the bag and possession limits for hogfish in or from the South Atlantic EEZ off Georgia, South Carolina, and North Carolina are zero.

(iii) *ACLs for the Georgia-North Carolina stock.* This stock includes hogfish off Georgia, South Carolina, and North Carolina. All weights are given in round weight.

(A) *Commercial ACL*—23,456 lb (10,639 kg).

(B) *Recreational ACL*—988 fish.

(C) The combined commercial and recreational ACL for the Georgia-North Carolina hogfish stock is 33,930 lb (15,390 kg).

(2) *Hogfish off the Florida Keys and east coast of Florida, and south of 25°09' N. lat. off the west coast of Florida (Florida Keys-East Florida)*—(i)

*Commercial sector.* (A) If commercial landings for the Florida Keys-East Florida hogfish stock, as estimated by the SRD, reach or are projected to reach the applicable commercial ACL specified in paragraph (u)(2)(iii)(A) of this section, the AA will file a notification with the Office of the Federal Register to close the applicable commercial sector for the remainder of the fishing year. On and after the effective date of such a notification, all sale or purchase of hogfish in or from the EEZ off the Florida Keys and east coast of Florida, and south of 25°09' N. lat. off the west coast of Florida is prohibited, and harvest or possession of this species is limited to the bag and possession limits. These bag and possession limits apply for this hogfish stock on board a vessel for which a valid Federal commercial or 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 for the Florida Keys-East Florida hogfish stock, as estimated by the SRD, exceed the applicable commercial ACL specified in paragraph (u)(2)(iii)(A) of this section, and the applicable combined commercial and recreational ACL specified in paragraph (u)(2)(iii)(C) of this section is exceeded during the same fishing year, and the stock is overfished based on the most recent Status of U.S. Fisheries Report to Congress, the AA will file a notification with the Office of the Federal Register to reduce the commercial ACL for the stock in the following fishing year by the amount of the applicable commercial ACL overage in the prior fishing year.

(ii) *Recreational sector.* (A) If recreational landings for the Florida Keys-East Florida hogfish stock, as estimated by the SRD, reach or are projected to reach the applicable recreational ACL specified in paragraph (u)(2)(iii)(B) 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 regardless if the stock is overfished, unless NMFS determines that no closure is necessary based on the best scientific information available. On and after the effective date of such a notification, the bag and possession limits for hogfish in or from the EEZ off the Florida Keys and east coast of Florida, and south of 25°09' N. lat. off the west coast of Florida are zero.

(B) If recreational landings for the Florida Keys-East Florida hogfish stock, as estimated by the SRD, exceed the applicable recreational ACL specified in paragraph (u)(2)(iii)(B) of this section, then during the following fishing year recreational landings will be monitored for a persistence in increased landings. If necessary, the AA will file a notification with the Office of the Federal Register to reduce the length of the following applicable recreational fishing season and recreational ACL in the following fishing year by the amount of the recreational ACL overage if the Florida Keys-East Florida hogfish stock is overfished, based on the most recent Status of U.S. Fisheries Report to Congress, and the applicable combined commercial and recreational ACL is exceeded during the same fishing year to ensure recreational landings do not exceed the recreational ACL in the following fishing year. NMFS will use the best scientific information available to determine if reducing the length of

the recreational fishing season and recreational ACL is necessary. When a recreational sector is closed as a result of NMFS reducing the length of the following recreational fishing season and ACL, the bag and possession limits for hogfish in or from the EEZ off the Florida Keys and east coast of Florida, and south of 25°09' N. lat. off the west coast of Florida are zero.

(iii) *ACLs for the Florida Keys-East Florida stock.* This stock includes hogfish off the Florida Keys and east coast of Florida, and south of 25°09' N. lat. off the west coast of Florida.

(A) *Commercial ACL.* See the following table. All weights are given in round weight.

| Year       | Commercial ACL        |
|------------|-----------------------|
| 2017 ..... | 3,510 lb (1,592 kg).  |
| 2018 ..... | 4,524 lb (2,052 kg).  |
| 2019 ..... | 5,670 lb (2,572 kg).  |
| 2020 ..... | 6,926 lb (3,142 kg).  |
| 2021 ..... | 8,277 lb (3,754 kg).  |
| 2022 ..... | 9,703 lb (4,401 kg).  |
| 2023 ..... | 11,179 lb (5,071 kg). |
| 2024 ..... | 12,677 lb (5,750 kg). |
| 2025 ..... | 14,167 lb (6,426 kg). |
| 2026 ..... | 15,621 lb (7,086 kg). |
| 2027 ..... | 17,018 lb (7,719 kg). |

(B) *Recreational ACL.* See the following table. The recreational ACL is in numbers of fish.

| Year       | Recreational ACL |
|------------|------------------|
| 2017 ..... | 15,689           |
| 2018 ..... | 18,617           |
| 2019 ..... | 21,574           |
| 2020 ..... | 25,086           |
| 2021 ..... | 29,096           |
| 2022 ..... | 33,358           |
| 2023 ..... | 37,671           |
| 2024 ..... | 41,934           |
| 2025 ..... | 46,046           |
| 2026 ..... | 49,949           |
| 2027 ..... | 53,610           |

(C) *Combined commercial and recreational ACL.* See the following table. The combined commercial and recreational ACL is in numbers of fish.

| Year       | Combined commercial and recreational ACL |
|------------|------------------------------------------|
| 2017 ..... | 17,034                                   |
| 2018 ..... | 20,350                                   |
| 2019 ..... | 23,746                                   |
| 2020 ..... | 27,740                                   |
| 2021 ..... | 32,267                                   |
| 2022 ..... | 37,076                                   |
| 2023 ..... | 41,954                                   |
| 2024 ..... | 46,791                                   |
| 2025 ..... | 51,474                                   |
| 2026 ..... | 55,934                                   |
| 2027 ..... | 60,130                                   |

\* \* \* \* \*

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