

[Revise heading of 11.0 as follows:]

### 11.0 Combining Automation and Nonautomation Flats in Bundles

[Delete 11.1 and renumber current 11.2 through 11.4 as new 11.1 through 11.3.]

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We will publish an appropriate amendment to 39 CFR part 111 to reflect these changes if our proposal is adopted.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. E9-2515 Filed 2-5-09; 8:45 am]

BILLING CODE 7710-12-P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Parts 253 and 600

[Docket No. 080228332-81199-01]

RIN 0648-AW38

#### Magnuson-Stevens Act Provisions; Interjurisdictional Fisheries Act; Disaster Assistance Programs; Fisheries Assistance Programs

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

**ACTION:** Proposed rule; extension of comment period.

**SUMMARY:** NMFS extends the public comment period on the proposed rule to govern the requests for determinations of fishery resource disasters as a basis for acquiring potential disaster assistance. NMFS has received requests to extend the comment period for the proposed rule beyond its current 30-day comment period. The extension of the comment period for another 2 months is intended to ensure that NMFS provides adequate time for various stakeholders and other members of the public to comment on the proposed regulations to govern initiating and responding to requests for fisheries disaster assistance. The comment period of the January 15, 2009 (74 FR 2467) rule is extended from February 17, 2009, to April 20, 2009.

**DATES:** Comments must be submitted in writing on or before April 20, 2009.

**ADDRESSES:** You may submit comments, identified by 0648-AW38, by any one of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal: <http://www.regulations.gov>;

- Fax: 301-713-1193, Attn: Robert Gorrell;

- Mail: Alan Risenhoover, Director, NMFS Office of Sustainable Fisheries, Attn: Disaster Assistance Program Guidance and Procedures, 1315 East-West Highway, SSMC3, Silver Spring, MD 20910.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule may be submitted to Alan Risenhoover at the above address and by email to [David\\_Rostker@omb.eop.gov](mailto:David_Rostker@omb.eop.gov), or by fax to (202) 395-7285.

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

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

**FOR FURTHER INFORMATION CONTACT:**

Robert Gorrell, at 301-713-2341 or via e-mail at [robert.gorrell@noaa.gov](mailto:robert.gorrell@noaa.gov).

**SUPPLEMENTARY INFORMATION:**

A proposed rule that sets forth NMFS' proposed regulations to govern requests for determinations of fishery resource disaster assistance was published in the **Federal Register** on January 15, 2009 (74 FR 2467), with a comment period ending date of February 17, 2009. The regulations would establish definitions, and characteristics of commercial fishery failures, fishery resource disasters, serious disruptions affecting future production, and harm incurred by fishermen, as well as requirements for initiating a review by NMFS, and the administrative process it will follow in processing such applications. The intended result of these procedures and requirements is to clarify and interpret the fishery disaster assistance provisions of the Magnuson-Stevens Fishery Conservation and Management Act and the Interjurisdictional Fisheries Act through rulemaking and thereby ensure consistency and facilitate the processing of requests.

After receiving requests to extend the comment period, NMFS has decided to extend it for another 62 days through April 20, 2009. This action extends the comment period for a proposed rule that

the Office of Management and Budget determined to be significant under Executive Order 12866.

**Authority:** 46 U.S.C. 1271-1279 and 16 U.S.C. 4101 *et seq.*

Dated: February 3, 2009.

**James W. Balsiger**

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. E9-2587 Filed 2-5-09; 8:45 am]

BILLING CODE 3510-22-S

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 622

[Docket No. 0808041045-9006-01]

RIN 0648-AW64

#### Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery off the Southern Atlantic States; Amendment 16

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

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

**SUMMARY:** NMFS issues this proposed rule to implement Amendment 16 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP)(Amendment 16), as prepared and submitted by the South Atlantic Fishery Management Council (Council). This proposed rule would establish a seasonal closure of the recreational and commercial fisheries for gag and associated grouper species; establish a seasonal closure of the recreational fishery for vermilion snapper; reduce the aggregate bag limit for grouper and tilefish; reduce the bag limit for gag or black grouper combined; reduce the bag limit for vermilion snapper; prohibit captain and crew of a vessel operating as a charter vessel or headboat from retaining any fish under the aggregate bag limit for grouper and tilefish or the vermilion snapper bag limit; establish semiannual quotas for the commercial vermilion snapper fishery; establish a quota for the commercial gag fishery; establish restrictions on the possession, sale, and purchase of gag and associated grouper species after the gag commercial quota is reached; and require possession of a venting tool and dehooking device on board a vessel when fishing for South Atlantic snapper-grouper and use of such tools as needed to accomplish

release of fish with minimum injury. In addition, Amendment 16 proposes, for both gag and vermilion snapper, to revise the definitions of maximum sustainable yield (MSY) and optimum yield (OY), specify total allowable catch (TAC), and establish interim allocations of TACs for the recreational and commercial sectors. Amendment 16 also proposes to specify a minimum stock size threshold (MSST) for gag and, for the new assessment, for vermilion snapper. The intended effects of this proposed rule are to end overfishing of gag and vermilion snapper, protect shallow-water grouper during their spawning season, and reduce bycatch of snapper-grouper species in the South Atlantic.

**DATES:** Written comments on this proposed rule must be received no later than 5 p.m., eastern time, on March 9, 2009.

**ADDRESSES:** You may submit comments, identified by "0648-AW64", by any of the following methods:

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

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

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

Copies of Amendment 16 may be obtained from the South Atlantic Fishery Management Council, 4055 Faber Place, Suite 201, North Charleston, SC 29405; phone: 843-571-4366 or 866-SAFMC-10 (toll free); fax: 843-769-4520; e-mail: [safmc@safmc.net](mailto:safmc@safmc.net). Amendment 16 includes a Final Environmental Impact Statement (FEIS), a Biological Assessment, an Initial Regulatory Flexibility Analysis (IRFA), a Regulatory Impact Review, and a Social Impact Assessment/Fishery Impact Statement.

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

**SUPPLEMENTARY INFORMATION:** The snapper-grouper fishery off the southern Atlantic states is managed under the FMP. The FMP was prepared by the Council and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

### Background

The Magnuson-Stevens Act requires NMFS and regional fishery management councils to prevent overfishing and achieve, on a continuing basis, optimum yield for 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 specify their strategy to rebuild overfished stocks to a sustainable level within a certain time frame, and to minimize bycatch and bycatch mortality to the extent practicable.

NMFS notified the Council on June 12, 2007, that the South Atlantic stock of gag is undergoing overfishing and approaching an overfished condition. This determination was made based on the 2006 Southeast Data Assessment and Review (SEDAR) stock assessment. The Council was also notified on June 12, 2007, that vermilion snapper was experiencing overfishing. A new SEDAR stock assessment for vermilion snapper was recently completed and indicated the stock is not overfished but verified that the stock is undergoing overfishing. The Report to Congress on the Status of U.S. Fisheries indicates red grouper and black grouper have been experiencing overfishing since 1998. The Southeast Fisheries Science Center has determined the overfishing determinations are based on the best available scientific information.

The Magnuson-Stevens Act requires the Council prepare a plan amendment or proposed regulations to end overfishing within one year of receiving notification that overfishing is occurring. Amendment 16 is intended to end overfishing of gag and vermilion snapper and includes actions that address overfishing of red grouper and black grouper. In addition, Amendment 16 includes an action intended to

reduce bycatch mortality of snapper-grouper species.

### Proposed Management Measures

The total allowable catch (TAC) levels for gag and for vermilion snapper are based on projections provided by the SEDAR assessment for these species. The TACs are based on a yield associated with 75 percent of the fishing mortality rate that will produce MSY, as recommended by the Council's Scientific and Statistical Committee.

The Council recommended reduced recreational harvest for both gag and vermilion snapper. Necessary reductions in harvest are expected to be achieved through the proposed seasonal closures and modifications to bag limits. The needed reduction in recreational gag harvest is determined by applying the Council's preferred allocation of 49 percent to the TAC identified in the SEDAR assessment. This would result in a harvest reduction of 37 percent when compared to average 2004-2006 landings.

The necessary reduction in recreational vermilion snapper harvest is determined by applying the Council's preferred allocation of 32 percent to the TAC identified in the SEDAR assessment. This would result in a harvest reduction of 47 percent when compared to average 2004-2006 landings.

### Commercial Fishery Quotas

This proposed rule would reduce quotas for both gag and vermilion snapper. The proposed quota for gag is based on the Council's preferred interim allocation of 51 percent, which would be applied to the TAC specified in the SEDAR assessment. This would result in a harvest reduction of 35 percent when compared to average 2004-2006 landings and would result in a commercial quota of 352,940 lb (137,222 kg) gutted weight.

The proposed quota for vermilion snapper is based on the Council's preferred allocation of 68 percent, which would be applied to the TAC specified in the SEDAR assessment. The proposed rule would establish a vermilion snapper quota of 315,523 lb (143,119 kg) gutted weight from January-June and 302,523 lb (137,222 kg) gutted weight from July-December. This would result in a harvest reduction of 29 percent compared to average 2004-2006 landings.

### Seasonal Closures

This proposed rule would establish a 4-month (January-April) spawning season closure of the recreational and commercial fisheries for gag, black

grouper, red grouper, scamp, rock hind, red hind, coney, graysby, yellowfin grouper, yellowmouth grouper, and tiger grouper. During this closure, no person may fish for, harvest, or possess these species in or from the South Atlantic exclusive economic zone (EEZ). In addition, for a person aboard a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper grouper has been issued, the provisions of this closure would apply regardless of where these species were harvested, i.e., in state or Federal waters. These species are particularly vulnerable to fishing pressure because they are long-lived, change sex, and some species form spawning aggregations where the largest and oldest individuals can be selectively removed by fishing gear. The Council concluded that a January through April spawning season closure could have positive biological effects including protecting spawning aggregations, increasing the percentage of males, enhancing reproductive success, and increasing the magnitude of recruitment.

This proposed rule would establish a recreational seasonal closure for vermilion snapper in or from the South Atlantic EEZ from November 1 through March 31, each year. During this closure, the bag and possession limit for vermilion snapper in or from the South Atlantic EEZ is zero. In addition, for a person on board a vessel for which a valid Federal charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, the provisions of this closure would apply regardless of whether the fish are harvested in state or Federal waters.

#### *Bag Limit Reductions*

This proposed rule would reduce the recreational bag limits for the grouper aggregate, gag, black grouper, and vermilion snapper. The grouper aggregate, which contains misty grouper, red grouper, scamp, tiger grouper, yellowedge grouper, yellowfin grouper, yellowmouth grouper, blueline tilefish, sand tilefish, coney, graysby, rock hind, red hind, gag, black grouper, snowy grouper, golden tilefish, speckled hind, and warsaw grouper, would be reduced from five fish per person per day to three fish per person per day. The bag limit for gag and black grouper would be reduced from two gag or black grouper (combined) to one gag or black grouper (combined) within the grouper aggregate bag limit. The bag limit for vermilion snapper would be reduced from 10 fish to 5 fish per person per day. Under the proposed rule, charter/headboat captains and crew would be

prohibited from retaining vermilion snapper or species within the grouper aggregate (including tilefish species). Bag limit reductions are expected to contribute to an overall reduction in harvest and incidental catch of these species including those experiencing overfishing.

#### *Reduction in Bycatch Mortality*

This proposed rule includes an action intended to reduce recreational and commercial bycatch mortality by requiring the use of venting tools and dehooking devices for a person on board a vessel fishing for snapper-grouper species.

The Council intends for venting tools only to be used as required, i.e., when there is evidence of embolism. A venting tool can be any hollow, sharpened instrument that allows gases to escape. Ice picks and knives are not suitable and will likely contribute to mortality of released fish. Venting tools can be purchased from vendors or constructed by fishermen. For example, a venting tool could be constructed from a modified hypodermic needle or from a hollow, sharpened stainless steel cannula mounted on a hollow wooden dowel.

A dehooking device is a tool intended to remove a hook embedded in a fish and allows the fish to be released with minimal damage. Dehookers would not have to be used if it is safer for the fish and the angler to cut the line rather than remove a deeply embedded hook. Examples of dehooking devices would include tools with a long shaft and inverted "V", bluntnose pliers, alligator pliers, or dehooking forceps. The use of devices that can grab the fishing line, slide down the line, or remove the hook quickly are encouraged since these tools would require less handling of the fish.

#### **Availability of Amendment 16**

Additional background and rationale for the measures discussed above are contained in Amendment 16. The availability of Amendment 16 was announced in the **Federal Register** on December 24, 2008 (73 FR 79037). Written comments on Amendment 16 will be accepted through February 23, 2009. All comments received on Amendment 16 or on this proposed rule during their respective comment periods will be addressed in the preamble to the final rule.

#### **Classification**

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with Amendment 16, the Magnuson-

Stevens Act, and other applicable law, subject to further consideration after public comment.

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

The Council prepared an FEIS for Amendment 16; a notice of availability was published on November 7, 2008 (73 FR 66242).

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

The proposed rule would introduce changes to the management of South Atlantic gag, other shallow-water grouper, and vermilion snapper. For gag and other shallow-water grouper, the proposed rule would set a gag TAC at 694,000 lb (314,793 kg) gutted weight for 2009 and subsequent fishing years; set a gag interim allocation at 51 percent for the commercial sector and 49 percent for the recreational sector; establish a gag January-April spawning season closure for both the commercial and recreational sectors together with no fishing or possession of black grouper, red grouper, scamp, red hind, rock hind, yellowmouth grouper, tiger grouper, yellowfin grouper, graysby, and coney during the closure; establish a gag commercial quota of 352,940 lb (160,091 kg) gutted weight after adjustment for post quota bycatch mortality (PQBM); reduce the grouper and tilefish recreational aggregate bag limit from five fish to three fish; reduce the gag or black grouper component of the grouper and tilefish aggregate bag limit from two fish to one fish; and, exclude the captain and crew on for-hire vessels from possessing a grouper bag limit.

For vermilion snapper, the proposed rule would set TAC at 960,360 lb (435,612 kg) gutted weight for 2009 and subsequent fishing years; set an interim allocation at 68 percent for the commercial sector and 32 percent for the recreational sector; establish a commercial quota of 653,045 lb (296,216 kg) gutted weight, with the quota split between the January 1–June 30 period (315,523 lb (143,119 kg) gutted weight taking into account PQBM) and the July 1–December 31 period (302,523 lb (137,222 kg) gutted weight taking into

account PQBM) and any remaining quota from the first period would be carried over to the second period of the same year; reduce the recreational bag limit from 10 fish to 5 fish; and establish a November-March spawning season closure for the recreational sector.

In addition to the measures directly affecting gag, other shallow-water grouper, and vermilion snapper, the proposed rule would also require a person on board a vessel to use venting and de-hooking tools when fishing for snapper-grouper species.

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 would not alter existing reporting, record-keeping, or other compliance requirements, except for the requirement to use venting and de-hooking tools when fishing for snapper-grouper species.

The proposed rule would be expected to directly affect vessels that operate in the South Atlantic commercial and for-hire snapper-grouper fisheries. The Small Business Administration (SBA) has established size criteria for all major industry sectors in the U.S. including fish harvesters and for-hire operations. A business involved in fish harvesting is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of \$4.0 million (NAICS code 114111, finfish fishing) for all affiliated operations worldwide. For for-hire operations, the other qualifiers apply and the annual receipts threshold is \$7 million (NAICS code 713990, recreational industries).

A commercial snapper-grouper permit is required to operate in the South Atlantic snapper-grouper fishery, and a two-tier license limitation program has been in effect since 1998. Logbook data from 2001–2006 were used in the analysis of the expected impacts of this action. Over this period, an average of 1,101 vessels per year were permitted to operate in the commercial snapper-grouper fishery. However, only an average of 922 vessels per year had recorded landings of snapper-grouper species. The total average annual dockside revenue from snapper-grouper species and all other species on trips that harvested snapper-grouper species over this period was approximately \$15.58 million (2005 dollars), resulting in a per vessel average of approximately \$16,900 for vessels that harvested snapper-grouper. The highest producers included an average of 27 vessels per year that harvested more than 50,000

pounds of snapper-grouper per year, valued at approximately \$100,000 per vessel. Vessels that operate in the snapper-grouper fishery may also operate in other fisheries that are not covered by the logbook program. As such, the revenues from these fisheries cannot be determined with these data and are not reflected in the totals provided above.

While a vessel that possesses a commercial snapper-grouper permit can harvest any snapper-grouper species, during the period 2001–2006, only 299 vessels per year had recorded harvests of gag and only 259 vessels had recorded harvests of vermilion snapper. These totals are not additive, because some vessels landed both species. Total dockside revenues from all snapper-grouper species and other species on trips that harvested gag averaged approximately \$5.74 million (2005 dollars) over this period, resulting in a per vessel average of approximately \$19,200. Total dockside revenues from all snapper-grouper species and all other species on trips that harvested vermilion snapper averaged approximately \$6.98 million (2005 dollars) over this period, resulting in a per vessel average of approximately \$26,950. Among the vessels with recorded gag harvests, an average of 12 vessels per year harvested more than 10,000 pounds of gag per year, generating dockside revenues of approximately \$29,300 per vessel. An average of 43 vessels per year harvested more than 10,000 lb (4,536 kg) of vermilion snapper, generating dockside revenues of approximately \$24,000 per vessel.

For the period 2001–2006, an average of 1,273 vessels were permitted to operate in the snapper-grouper for-hire fishery, of which 82 are estimated to have operated as headboats. Within this total of vessels, 235 vessels also possessed a commercial snapper-grouper permit and would be included in the summary information provided above on the commercial sector. 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 (in 2005 dollars) 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 appropriate estimates are \$170,000–\$362,000 for Florida vessels, and \$149,000–\$317,000 for vessels in the other states. Some fleet activity may

exist in both the commercial and for-hire snapper-grouper sectors, but the extent of such is unknown and all vessels are treated in this analysis as independent entities.

Based on the average revenue figures provided above, it is determined for the purpose of this analysis that all commercial and for-hire operations that would be affected by this proposed rule are small entities.

Because all entities that are expected to be affected by the proposed rule are considered small entities, the issue of disproportional impacts of the proposed rule on small and large entities does not arise. The measures in this amendment would reduce harvest and associated revenues and net profits of affected small entities.

The proposed gag and other shallow-water grouper management measures are expected to reduce annual net operating revenues by approximately \$848,000 for vessels that harvest at least 1.0 lb (0.45 kg) of snapper-grouper. Based on an average of 299 vessels per year with recorded gag landings and an average of 922 vessels per year with recorded snapper grouper landings, this reduction in net revenue results in an average of approximately \$2,800 per vessel with gag landings and approximately \$900 per vessel with snapper-grouper landings. While net revenues are not directly comparable to gross revenues, the average annual revenues from all species on trips that harvested gag is estimated to be approximately \$19,200 and the comparable revenue total for snapper-grouper vessels is approximately \$16,900. For the for-hire fishery, the proposed gag and other shallow-water grouper management measures are expected to reduce annual producer surplus for the entire fishery by approximately \$285,000. Although 1,456 vessels are permitted to operate in the snapper-grouper fishery, not all would be expected to harvest or be affected by the gag and other shallow-water grouper regulations. However, a meaningful method for determining how to apportion the expected reduction in producer surplus among the vessels in the fleet has not been identified.

The proposed vermilion snapper management measures are expected to reduce annual operating revenues to commercial vessels that harvest snapper-grouper by approximately \$1.62 million. Based on an average of 259 vessels per year with recorded vermilion snapper landings and 922 vessels per year with recorded snapper-grouper landings, this reduction in net revenue results in an average of

approximately \$7,300 per vessel with vermilion snapper landings and approximately \$1,800 per vessel with snapper-grouper landings. As stated above, while net revenues are not directly comparable to gross revenues, the average annual revenues from all species on trips that harvested vermilion snapper is estimated to be approximately \$26,950 and the comparable average revenue total for snapper-grouper vessels is approximately \$16,900. For the for-hire fishery, the proposed vermilion snapper management measures are expected to reduce annual producer surplus for the entire fishery by approximately \$58,000. Similar to the discussion on the gag and other shallow-water grouper management measures, a meaningful method for determining how to apportion the expected reduction in producer surplus among the 1,456 vessels in the fleet has not been identified.

The proposed requirement to use venting and de-hooking tools to reduce the bycatch of snapper-grouper is expected to increase gear costs by less than \$15 per vessel. Many fishermen would not be expected to incur any new gear costs since the possession and use of venting tools and de-hooking devices is already widespread.

Two alternatives, including the proposed action, were considered for the action to specify the gag TAC. The single alternative to the proposed TAC is the no action alternative, which would not set a TAC for gag. Because a TAC is required to make management determinations, the no action alternative would not achieve the Council's objective.

Four alternatives, including the proposed action, were considered for the action to specify an interim allocation for gag. The first alternative to the proposed action, the no action alternative, would not establish an allocation of gag between the commercial and recreational sectors. The absence of an allocation would hinder overall TAC management and the ability to take corrective action in the appropriate sector should TAC overages occur. This alternative, therefore, would not achieve the Council's objective. The other two alternatives to the proposed action would result in higher allocations to the commercial sector than the proposed action and, thus, would result in lower adverse economic impacts on the commercial small entities. However, these alternatives would increase the adverse impacts on the recreational sector (for-hire businesses). The overall net effects of the alternative allocations

cannot be estimated at this time due to the absence of appropriate data and comparable commercial and recreational models. The proposed allocation was selected because it best matches current harvest distributions and is, thus, expected to be the least disruptive to current harvest practices.

Seven alternatives (with sub-alternatives), including the proposed actions, were considered for the action to specify gag and other shallow-water grouper management measures. The proposed action encompasses three separate alternatives: one alternative to establish a spawning closure, one alternative to establish a directed commercial quota, and one alternative to establish recreational management measures. The first alternative to the proposed action is the no action alternative, which would apply to both the commercial and recreational sectors. The no action alternative would not achieve the Council's objective of ending overfishing of gag. Two alternatives to the proposed action would only apply to the commercial sector. The first of these alternatives would divide the commercial quota into North Carolina/South Carolina and Georgia/Florida regional sub-quotas. Although this alternative may result in a more even distribution of the economic effects of the proposed quota across participants in all South Atlantic states, the total reduction in economic value is expected to be greater than that of the proposed action. The second commercial alternative to the proposed action would establish a 1,000-lb (454-kg) trip limit. This alternative is expected to result in greater adverse economic effects than the proposed action. One alternative to the proposed action would only apply to the recreational sector and would extend the proposed spawning closure by an additional month. As a result, this alternative would increase the adverse economic effects on the recreational sector. A final alternative would apply to both the commercial and recreational sectors. This alternative would establish special management regulations for waters off Monroe County, Florida. This alternative is expected to result in greater adverse economic effects on entities in the commercial sector than the proposed action and have only minor economic effects on entities in the recreational sector.

Two alternatives, including the proposed action, were considered for the action to specify the vermilion snapper TAC. The single alternative to the proposed TAC is the no action alternative, which would not set a TAC for vermilion snapper. Because a TAC is

required to make management determinations, the no action alternative would not achieve the Council's objective.

Two alternatives, including the proposed action, were considered for the action to specify an interim allocation for vermilion snapper. The only alternative to the proposed action is the no action alternative, which would not establish an allocation for vermilion snapper. The absence of an allocation would hinder overall TAC management and the ability to take corrective action in the appropriate sector should TAC overages occur. This alternative, therefore, would not achieve the Council's objective.

Five alternatives (with multiple sub-alternatives), including the proposed action, were considered for the action to establish management measures for vermilion snapper. The proposed action encompasses three separate alternatives: one alternative to establish a directed commercial quota, one alternative to allocate the commercial quota to two periods, January through June and July through December, and one alternative to establish recreational management measures. The first alternative to the proposed action is the no action alternative, which would not change current management measures for vermilion snapper. The no action alternative would not achieve the Council's objective of ending overfishing of vermilion snapper. Two alternatives to the proposed action would only apply to the commercial sector. The first of these alternatives addresses the seasonal allocation of the commercial quota and contains two sub-alternatives. The first of these alternatives would allocate 40 percent of the quota to the first season and 60 percent to the second season instead of the proposed 50 percent allocation to each period (as adjusted for PQBM). This alternative is expected to have almost identical effects on commercial entities as the proposed action and is not expected to reduce the adverse economic effects of the proposed action. The second alternative to the proposed seasonal commercial quota allocation would maintain the equal 50 percent seasonal allocation (as adjusted for PQBM) but would lengthen the first season by two months, thereby establishing 8-month and 4-month seasons. This alternative is expected to result in greater adverse economic impacts on commercial entities than the proposed action. The second alternative to the proposed action that would apply only to the commercial sector would establish a 1,000-lb (454-kg) trip limit and a May 1st start to the fishing year

in lieu of seasonal quotas. Relative to the proposed action, this alternative is expected to result in slightly lower adverse economic effects for vessel trips landing at least 1.0 lb (0.45 kg) of vermilion snapper, but the Council did not choose this alternative because it would alter the distribution of harvests across the various areas. One alternative, which includes five sub-alternatives including the proposed action, would apply only to the recreational sector. Two of these sub-alternatives would maintain the zero bag limit for captain and crew, similar to the proposed action, but would impose higher minimum size limits and lower bag limits. As a result, these two sub-alternatives are expected to result in greater adverse economic impacts on recreational small entities than the proposed action. The remaining two alternatives would maintain the zero bag limit for captain and crew like the proposed action. The first of these two alternatives would also establish a higher minimum size limit and a higher bag limit but a shorter seasonal closure than the proposed action. As a result of the higher bag limit and shorter seasonal closure, this alternative would be expected to result in lower adverse economic effects than the proposed action. The Council believed, however, that this alternative would have lower probability of achieving the target reduction in recreational harvest than the proposed action. The second of these two alternatives would maintain the same size limit as the proposed action but would establish a lower bag limit and longer seasonal closure, resulting in greater adverse economic impacts than the proposed action. Overall, the Council believes that the proposed bag limit and seasonal closure, while maintaining the current size limit, will provide a higher probability of achieving the target reduction in recreational harvest at a reasonably acceptable economic cost to small entities.

Three alternatives (with one set of sub-alternatives), including the proposed action, were considered for the action to reduce the bycatch of snapper-grouper. The first alternative to the proposed action is the no action alternative, which would not require additional measures to reduce bycatch of snapper-grouper and would not achieve the Council's objective. In addition to the requirement of the proposed action for vessels fishing for snapper-grouper to possess de-hooking devices and venting tools, the second alternative to the proposed action would also require the use of circle hooks. This

alternative would be expected to adversely affect the harvest of certain target species because the morphology of their mouths and biting habits would not allow circle hooks to be an effective harvest gear. As a result, this alternative would be expected to reduce the harvest of target species and result in greater adverse economic effects than the proposed action. Additionally, within this rejected alternative, sub-alternatives considered the application of the requirements to just the commercial sector, just the recreational sector, or both sectors. The proposed action would apply to both sectors. Although the application of the new bycatch reduction requirements to a single sector would reduce the adverse economic effects for the exempted sector, the overall benefits of bycatch reduction would be lower. As a result, sector exemption would not achieve the Council's objective.

In addition to the actions discussed above, Amendment 16 considered alternatives to establish management reference points and stock status criteria for gag and vermilion snapper. These alternatives are discussed in the following paragraphs.

For both gag and vermilion snapper, the proposed management reference points are such that MSY would be equated to the yield produced at  $F_{MSY}$ ,  $F_{OY}$  equated to the fishing mortality rate specified in the rebuilding plan when the stock is overfished or at 75 percent of  $F_{MSY}$  when the stock is rebuilt, and OY equated to the yield produced at  $F_{OY}$ . In terms of economic effects, these management reference points only have meaningful content when evaluated through the management measures proposed to restrict gag and vermilion snapper to the allowable harvest levels. Also, because they are reference points and would not directly place any harvest restrictions on the fishery, none of the alternatives would result in any direct effects on gag and vermilion snapper.

Two alternatives, including the proposed action, were considered for the action to specify gag and vermilion snapper management reference points. The first alternative to the proposed action, the no action alternative, would retain the current definitions of MSY and OY. These definitions are not consistent with the most recent scientific advice and would not achieve the Council's objective of basing management decisions on the best available scientific information. The second alternative contains three sub-alternatives for the specification of OY, one of which is the proposed OY specification. Each of the two

alternative specifications to the proposed OY are based on the same specification of MSY, but specify different levels of OY, one more than the proposed OY and one less. All OY levels, including the proposed action, would result in relatively restrictive management measures. However, the proposed OY is expected to provide the best balance between short-term adverse economic impacts and long-term protection to the stock.

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

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

Dated: February 2, 2009

**James W. Balsiger,**

*Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.*

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

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

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

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

2. In § 622.35, paragraphs (j) and (k) are added to read as follows:

#### **§ 622.35 Atlantic EEZ seasonal and/or area closures.**

\* \* \* \* \*

(j) *Seasonal closure of the recreational and commercial fisheries for gag and associated grouper species.* During January through April each year, no person may fish for, harvest, or possess in or from the South Atlantic EEZ gag, black grouper, red grouper, scamp, red hind, rock hind, yellowmouth grouper, tiger grouper, yellowfin grouper, graysby, or coney. In addition, for a person on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, the provisions of this closure apply in the South Atlantic, regardless of where such fish are harvested, i.e., in state or Federal waters.

(k) *Seasonal closure of the recreational fishery for vermilion snapper.* The recreational fishery for vermilion snapper in or from the South Atlantic EEZ is closed from November 1 through March 31, each year. In addition, for a person on board a vessel for which a valid Federal charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, this closure applies in the South Atlantic, regardless of where the fish are

harvested, i.e., in state or Federal waters. During the closure, the bag and possession limit for vermilion snapper in or from the South Atlantic EEZ is zero.

**§ 622.36 [Amended]**

3. In § 622.36, paragraph (b)(4) is removed and reserved.

4. In § 622.39, paragraphs (d)(1)(ii) introductory text, (d)(1)(ii)(A), and (d)(1)(v) are revised to read as follows:

**§ 622.39 Bag and possession limits.**

\* \* \* \* \*

(d) \* \* \*

(1) \* \* \*

(ii) Grouper and tilefish, combined—  
3. However, no grouper or tilefish may be retained by the captain or crew of a vessel operating as a charter vessel or headboat. The bag limit for such captain and crew is zero. In addition, within the 3-fish aggregate bag limit:

(A) No more than one fish may be gag or black grouper, combined;

\* \* \* \* \*

(v) Vermilion snapper—5. However, no vermilion snapper may be retained by the captain or crew of a vessel operating as a charter vessel or headboat. The bag limit for such captain and crew is zero.

\* \* \* \* \*

5. In § 622.41, paragraph (n) is added to read as follows:

**§ 622.41 Species specific limitations.**

\* \* \* \* \*

(n) *Required gear in the South Atlantic snapper-grouper fishery.* For a person on board a vessel to fish for South Atlantic snapper-grouper in the South Atlantic EEZ, the vessel must possess on board and such person must use the gear as specified in paragraphs (n)(1) and (n)(2) of this section.

(1) *Dehooking device.* At least one dehooking device is required and must be used as needed to remove hooks embedded in South Atlantic snapper-grouper with minimum damage. The hook removal device must be constructed to allow the hook to be secured and the barb shielded without re-engaging during the removal process. The dehooking end must be blunt, and all edges rounded. The device must be of a size appropriate to secure the range of hook sizes and styles used in the South Atlantic snapper-grouper fishery.

(2) *Venting tool.* At least one venting tool is required and must be used as needed to deflate the swim bladders of South Atlantic snapper-grouper to release the fish with minimum damage.

This tool must be a sharpened, hollow instrument, such as a hypodermic syringe with the plunger removed, or a 16-gauge needle fixed to a hollow wooden dowel. A tool such as a knife or an ice-pick may not be used. The venting tool must be inserted into the fish at a 45-degree angle in a forward direction approximately 1 to 2 inches (2.54 to 5.08 cm) from the base of the pectoral fin. The tool must be inserted just deep enough to release the gases, so that the fish may be released with minimum damage.

6. In § 622.42, paragraph (e)(4) is revised, and paragraph (e)(7) is added to read as follows:

**§ 622.42 Quotas.**

\* \* \* \* \*

(e) \* \* \*

(4) *Vermilion snapper.* (i) For the period January through June each year—315,523 lb (143,119 kg).

(ii) For the period July through December each year—302,523 lb (137,222 kg).

(iii) Any unused portion of the quota specified in paragraph (e)(4)(i) of this section will be added to the quota specified in paragraph (e)(4)(ii) of this section. Any unused portion of the quota specified in paragraph (e)(4)(ii) of this section, including any addition of quota specified in paragraph (e)(4)(i) that was unused, will become void and will not be added to any subsequent quota.

\* \* \* \* \*

(7) Gag—352,940 lb (160,091 kg).

\* \* \* \* \*

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

**§ 622.43 Closures.**

\* \* \* \* \*

(a) \* \* \*

(5) *South Atlantic gag, greater amberjack, snowy grouper, golden tilefish, vermilion snapper, black sea bass, and red porgy.* (i) The appropriate bag limits specified in § 622.39(d)(1) and the possession limits specified in § 622.39(d)(2) apply to all harvest or possession of the applicable species in or from the South Atlantic EEZ, and the sale or purchase of the applicable species taken from or possessed in the EEZ is prohibited.

(ii) The bag and possession limits for the applicable species and the prohibition on sale/purchase apply in the South Atlantic 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.

(iii) For gag only, when the commercial quota for gag is reached, the provisions of paragraphs (a)(5)(i) and (ii) of this section apply to gag and the following associated grouper species: black grouper, red grouper, scamp, red hind, rock hind, yellowmouth grouper, tiger grouper, yellowfin grouper, graysby, and coney.

\* \* \* \* \*

8. In § 622.45, paragraph (d)(8) is revised to read as follows:

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

\* \* \* \* \*

(d) \* \* \*

(8) During January through April, no person may sell or purchase a gag, black grouper, red grouper, scamp, red hind, rock hind, yellowmouth grouper, tiger grouper, yellowfin grouper, graysby, or coney harvested from or possessed in the South Atlantic EEZ or, if harvested or possessed by a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, harvested from the South Atlantic, i.e., state or Federal waters. The prohibition on sale/purchase during January through April does not apply to such species that were harvested, landed ashore, and sold prior to January 1 and were held in cold storage by a dealer or processor. This prohibition also does not apply to a dealer's purchase or sale of such species harvested from an area other than the South Atlantic, provided such fish is accompanied by documentation of harvest outside the South Atlantic. Such documentation must contain:

(i) The information specified in 50 CFR part 300 subpart K for marking containers or packages of fish or wildlife that are imported, exported, or transported in interstate commerce;

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

(iii) The port and date of offloading from the vessel harvesting such fish, and;

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

\* \* \* \* \*