

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 622**

[Docket No. 160906822–7547–02]

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:** Final rule.

**SUMMARY:** NMFS implements management measures described in Amendment 37 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (Amendment 37), as prepared and submitted by the South Atlantic Fishery Management Council (South Atlantic Council). This final rule modifies the fishery management unit (FMU) 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; establishes a rebuilding plan for the FLK/EFL hogfish stock; specifies fishing levels and accountability measures (AMs), and modifies or establishes management measures for the GA/NC and FLK/EFL stocks of hogfish. The purpose of this final rule is to manage hogfish using the best scientific information available while ending overfishing and rebuilding the FLK/EFL hogfish stock.

**DATES:** This final rule is effective August 24, 2017.

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

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**SUPPLEMENTARY INFORMATION:** The snapper-grouper fishery in the South Atlantic includes hogfish and is managed under the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic

Region (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).

On July 31, 2015, NMFS published a notice of intent to prepare a draft EIS for Amendment 37 and requested public comment (80 FR 45641). On June 17, 2016, the notice of availability for the draft EIS was published and public comment was also requested (81 FR 39639). The notice of availability for the final EIS for Amendment 37 published on October 28, 2016 (81 FR 75053). On October 7, 2016, NMFS published a Magnuson-Stevens Act notice of availability for Amendment 37 and requested public comment (81 FR 69774). On December 16, 2016, NMFS published a proposed rule for Amendment 37 and requested public comment (81 FR 91104). On December 28, 2016, the Secretary of Commerce (Secretary) approved Amendment 37 under section 304(a)(3) of the Magnuson-Stevens Act. The proposed rule and Amendment 37 outline the rationale for the actions contained in this final rule. A summary of the management measures described in Amendment 37 and implemented by this final rule is provided below.

**Management Measures Contained in This Final Rule**

This final rule revises the hogfish FMU in the FMP by establishing two hogfish stocks, one in Federal waters off Georgia through North Carolina and one in Federal waters in the area off the Florida Keys and east Florida; specifies annual catch limits (ACLs) and AMs; and modifies or establishes management measures for the GA/NC and FLK/EFL stocks of hogfish. All weights of hogfish are described in round weight.

*FMU for Hogfish*

Hogfish is managed in Federal waters in the South Atlantic region from the jurisdictional boundary between the South Atlantic Council and Gulf of Mexico Fishery Management Council (Gulf Council) (approximately the Florida Keys) to the North Carolina and Virginia state border. This final rule creates two stocks of hogfish in Federal waters and establishes new stock boundaries under the jurisdiction of the South Atlantic Council under the FMP. The first stock is the GA/NC hogfish stock, with a southern boundary extending east from the Florida and Georgia state border to the seaward boundary of the EEZ. The GA/NC stock's management area then extends

northward to a line extending east from the North Carolina and Virginia state border to the seaward boundary of the EEZ. The second stock is the FLK/EFL hogfish stock, with a southern boundary at the 25°09' N. lat. line off the west coast of Florida, which is near Cape Sable. The FLK/EFL stock's management area extends south of 25°09' N. lat. off the west coast of Florida, then east around South Florida, and then north off the east coast of Florida to a line extending east from the Florida and Georgia state border to the seaward boundary of the EEZ.

In accordance with section 304(f) of the Magnuson-Stevens Act, the Gulf Council requested that the Secretary designate the South Atlantic Council as the responsible Council for management of the FLK/EFL hogfish stock in Gulf of Mexico (Gulf) Federal waters south of 25°09' N. lat. off the west coast of Florida. The Gulf Council approved Amendment 43 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (Amendment 43), and selected the same boundary at the 25°09' N. lat. line off the west coast of Florida, which is near Cape Sable, to separate the FLK/EFL hogfish stock from the hogfish stock managed under the Gulf Council's Reef Fish FMP (West Florida hogfish stock). On November 23, 2016, NMFS published a proposed rule in the **Federal Register** to implement Amendment 43 (81 FR 84538). The Secretary approved Amendment 43 on February 2, 2017, under section 304(a)(3) of the Magnuson-Stevens Act and also approved the Gulf Council's request for the revised boundary under section 304(f) of the Magnuson-Stevens Act. A final rule to implement Amendment 43 published on the same date as this final rule. Therefore, through this final rule, the South Atlantic Council establishes the management measures for the FLK/EFL hogfish stock, including in Gulf Federal waters south of 25°09' N. lat. off the west coast of Florida. Those commercial vessels and recreational charter vessels and headboats (for-hire) fishing for hogfish anywhere 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), are still 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, are still required to have the appropriate Federal South Atlantic snapper-grouper permits.

All Federal permit holders are still required to follow the sale and reporting requirements associated with the respective permits. Private recreational anglers must also follow applicable management measures implemented by this final rule for FLK/EFL hogfish in Gulf Federal waters south of 25°09' N. lat. off the west coast of Florida.

As described in Amendment 37, the revised stock boundary at the 25°09' N. lat. line off the west coast of Florida will aid law enforcement personnel because it coincides with an existing State of Florida management boundary for certain state-managed species and will simplify regulations across adjacent state and Federal management jurisdictions.

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

Because the most recent hogfish stock assessment, completed in 2014 through the Southeast Data, Assessment, and Review process (SEDAR 37), was not deemed sufficient to specify an acceptable biological catch (ABC) recommendation for the GA/NC stock of hogfish, the South Atlantic Council's Scientific and Statistical Committee (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. Amendment 29 to the Snapper-Grouper FMP updated the South Atlantic Council's ABC control rule, including Level 4 for unassessed stocks (80 FR 30947, June 1, 2015). For the GA/NC hogfish stock, this final rule and Amendment 37 specify an ABC of 35,716 lb (16,201 kg), a total ACL and optimum yield (OY) (equal to 95 percent of the ABC) of 33,930 lb (15,390 kg), and commercial and recreational ACLs based on re-calculated sector allocations of 69.13 percent to the commercial sector and 30.87 percent to the recreational sector. Establishment of the new GA/NC stock required re-calculation of 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. Through this final rule, the commercial ACL is set at 23,456 lb (10,639 kg) and the recreational ACL is set at 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.

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 the FLK/EFL stock of hogfish, it was more appropriate to specify the ABC, OY, 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 specifies an ABC of 17,930 fish for this stock, with annual increases through 2027 when the ABC is 63,295 fish. The OY and total ACL are equal to 95 percent of the ABC. The commercial and recreational ACLs are 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. For 2017, the total ACL (and OY) is 17,034 fish, the commercial ACL is 3,510 lb (1,592 kg) (which would be 1,345 fish), and the recreational ACL is 15,689 fish. Each of these ACLs increase annually through 2027 as the stock rebuilds. In 2027, the total ACL (and OY) for the FLK/EFL hogfish stock is 60,130 fish, the commercial ACL is 17,018 lb (7,719 kg) (which would be 6,520 fish), and the recreational ACL is 53,610 fish.

When possible, the South Atlantic Council prefers specifying the recreational ACL in numbers of fish and the commercial ACL in pounds. Their rationale is that recreational landings are already tracked in numbers of fish while commercial landings are tracked in pounds. Because Amendment 37 and this final rule also increase the minimum size limits for the GA/NC and FLK/EFL hogfish stocks, specifying certain catch levels in pounds could potentially increase the risk of exceeding the ABCs for the hogfish stocks because larger fish are heavier. Therefore, the South Atlantic Council determined that there would be a lower risk of exceeding the recreational ACLs due to an increase in the minimum size limits if certain catch levels, such as ABC and recreational ACL, were specified in numbers of fish. For the GA-NC stock of hogfish, the recreational ACL was converted from

pounds to numbers of fish using an average recreational weight of 10.6 lb (5 kg) per fish in round weight. Appendix N to Amendment 37 includes a detailed account of the methodology used to specify the recreational ACL for the FLK/EFL stock of hogfish in numbers of fish.

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

This final rule retains the existing in-season and post-season AMs applicable for the single South Atlantic-wide hogfish stock for the commercial sector and applies them to both the GA/NC and FLK/EFL hogfish stocks. The commercial AMs for the GA/NC and FLK/EFL hogfish stocks consist of an in-season closure of the commercial sector if the applicable commercial ACL is met or is projected to be met. If a commercial ACL is exceeded, a post-season AM would reduce the commercial ACL for the applicable hogfish stock 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 the applicable hogfish stock is overfished.

This final rule also retains the existing recreational AMs applicable for the single South Atlantic-wide hogfish stock and applies them to both the GA/NC and FLK/EFL hogfish stocks. The recreational AMs for the GA/NC and FLK/EFL hogfish stocks consist of an in-season closure of the recreational sector if the applicable recreational ACL is met or is projected to be met. If a recreational ACL is exceeded, then during the following fishing year, NMFS will monitor for continued increased landings of the applicable hogfish stock. If necessary, NMFS will reduce the length of the recreational season and the recreational ACL for the applicable hogfish stock by the amount of the recreational ACL overage if the total ACL is also exceeded and the applicable hogfish stock is overfished.

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

For both the commercial and recreational sectors, this final rule increases 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. The South Atlantic Council determined these minimum size limits 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*

This final rule establishes commercial trip limits of 500 lb (227 kg) for the GA/NC stock, and 25 lb (11 kg) for the FLK/EFL stock. The South Atlantic Council recommended 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 in the area 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 some harvest and help to prevent a commercial in-season closure.

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

This final rule establishes a recreational bag limit for each person of one fish per day in Federal waters for the FLK/EFL hogfish stock, and a recreational bag limit for each person of two fish per day in Federal waters for the GA/NC hogfish stock. 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*

This final rule establishes 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 during each fishing year. As described in Amendment 37, hogfish spawning activity occurs predominantly during the months of December through April. Analysis in Amendment 37 showed that, in combination with the recreational ACLs, minimum size limit, and recreational bag limit implemented through this final rule, a 6-month recreational fishing season would help to maintain recreational landings within 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 ACLs and AMs in this final rule will 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 recreational ACL established by this final rule.

#### **Management Measures Contained in Amendment 37 but Not Codified Through This Final Rule**

In addition to the management measures that this final rule implements, Amendment 37 includes actions to specify fishing levels and recreational annual catch targets (ACTs) for the GA/NC and FLK/EFL hogfish stocks, and establish a rebuilding plan for the FLK/EFL hogfish stock.

#### *Maximum Sustainable Yield and Minimum Stock Size Threshold for the GA/NC and FLK/EFL Hogfish Stocks*

Amendment 37 specifies the maximum sustainable yield (MSY) for the GA/NC and FLK/EFL stocks of hogfish as equal to the yield produced by the fishing mortality rate at MSY ( $F_{MSY}$ ) 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) (which would be 108,264 fish), and is unknown for the GA/NC hogfish stock. Amendment 37 specifies the minimum stock size threshold (MSST) for these two stocks of hogfish at 75 percent of spawning stock biomass at MSY ( $SSB_{MSY}$ ), 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).

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

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 increases annually from 2017 through 2027 as the stock rebuilds. NMFS notes that the 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 establishes a rebuilding plan that sets the 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 success. Year 1 of the rebuilding plan is 2017 and 2027 is the last year. The South Atlantic Council's SSC indicated that harvest levels recommended 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 is 17,930 fish in 2017 and increases annually through 2027, when the ABC is 63,295 fish.

#### **Comments and Responses**

A total of 33 comments were received on the notice of availability and proposed rule for Amendment 37 from individuals, and commercial, private recreational, and for-hire (charter) recreational fishing entities. The majority of comments were in general opposition to the large number of actions in Amendment 37, but most comments supported the need for some protection of hogfish, especially in the Florida Keys. The majority of comments supporting additional protection for hogfish were in favor of the increase in the minimum size limits for the FLK/EFL stock, but opposed the reduction in the recreational bag limits and recreational fishing season for the FLK/EFL stock. Comments that specifically relate to the actions contained in Amendment 37 and the proposed rule, as well as NMFS' respective responses, are summarized below.

*Comment 1:* NMFS should not modify the snapper-grouper FMU to create separate stocks of hogfish as proposed in Amendment 37. The regulations proposed by the Gulf Council in Amendment 43 and the proposal by the State of Florida to pass compatible regulations in state waters conflict with Amendment 37. Inconsistent rules for different regions create confusion, lead to costly government administration, and makes compliance difficult.

*Response:* The South Atlantic Council determined that based on the most recent stock assessment for hogfish, it is appropriate to manage these two stocks of hogfish separately, and NMFS agrees. The most recent stock assessment was completed in 2014 (SEDAR 37), and identified two separate stocks of hogfish in the South Atlantic region, and one stock of hogfish in the Gulf (West Florida hogfish stock). Within the South Atlantic region, one stock of hogfish was identified to exist off North Carolina, South Carolina, and Georgia (GA/NC stock); and a separate stock of hogfish was identified to exist off the Florida Keys and east Florida (FLK/EFL stock). Therefore, the final rule for Amendment 37 modifies the snapper-grouper FMU for hogfish into two stocks in the South Atlantic region (GA/NC and FLK/EFL) based on the best scientific information available.

NMFS disagrees that the regulations specific to the FLK/EFL stock boundary

in Amendment 37 conflict with the stock boundary in Amendment 43 or with the State of Florida's proposed changes to their regulations. The Gulf Council approved Amendment 43, which has the same boundary as the South Atlantic Council's Amendment 37 to separate the FLK/EFL hogfish stock from the West Florida hogfish stock. Both Amendment 37 and Amendment 43 have been approved by the Secretary, and the Gulf Council will continue to manage hogfish in Federal waters north of 25°09' N. lat. off the west coast of Florida. The South Atlantic Council will establish the management measures for the FLK/EFL hogfish stock, including in Gulf Federal waters south of 25°09' N. lat. (near Cape Sable, Florida). This new boundary will avoid confusion for the public, and will aid law enforcement and fishermen by making regulations for hogfish consistent off the entire Florida Keys and east coast of Florida.

While some management measures for hogfish in Amendment 43 will be different when compared with those in Amendment 37, the two FMPs concern separate stocks of hogfish, and NMFS disagrees that the management measures in Amendment 37 conflict with the management measures recently approved by the Florida Fish and Wildlife Conservation Commission (FWC). In November 2016, the Florida FWC approved regulations compatible with certain management measures in Amendment 43 and Amendment 37 for minimum size limits and recreational bag limits for hogfish in Florida state waters of the Gulf of Mexico and South Atlantic. These state regulations are identical to the minimum size limits and recreational bag limits implemented by the final rules for Amendment 43 and Amendment 37. The Florida FWC also approved a recreational fishing season in state waters adjacent to the FLK/EFL FMU; this recreational fishing season in state waters is identical to the recreational fishing season specified in Amendment 37 and in this final rule. The Florida FWC intends to file a notice of intent to adopt Federal regulations for hogfish in its state waters of the Gulf and South Atlantic when the final rules to implement Amendment 43 and Amendment 37 publish in the **Federal Register**. Therefore, consistent regulations will apply for hogfish in state and Federal waters off Florida in the respective stock areas. Also, see the response to Comment 2, below, regarding management measures for hogfish in the Gulf and South Atlantic regions.

*Comment 2:* Modifying the snapper-grouper FMU for hogfish at the 25°09' N.

lat. line off the west coast of Florida in the Gulf will create inconsistent regulations for commercial trip limits on either side of this demarcation. This action will also adversely affect fishers who do not have Federal commercial permits for both South Atlantic snapper-grouper and Gulf reef fish.

*Response:* NMFS agrees that commercial management measures differ depending on whether hogfish are harvested north or south of 25°09' N. lat. off the west coast of Florida, as no commercial trip limit applies north of that point in the Gulf. SEDAR 37 determined that the West Florida hogfish stock is neither overfished, nor undergoing overfishing, and the Gulf Council did not select a commercial trip limit for that stock. However, SEDAR 37 concluded that the FLK/EFL stock is overfished and undergoing overfishing. Therefore, the South Atlantic Council determined that a commercial trip limit was needed to help end overfishing and rebuild this stock. The South Atlantic Council determined that implementing a commercial trip limit of 25 lb (11 kg) for the FLK/EFL hogfish stock would restrict some harvest to assist in rebuilding this stock and help to lengthen the commercial season under the reduced commercial ACL.

NMFS disagrees that this final rule will adversely affect fishers not holding both commercial fishing permits. As discussed above, this final rule modifies the snapper-grouper FMU for hogfish and implements consistent regulations across adjacent state and Federal management jurisdictions in the respective stock areas, helps avoid confusion among the public, and assists law enforcement. However, this final rule will not modify the existing Federal commercial permit requirements. Vessels fishing for hogfish in Gulf Federal waters, as defined at 50 CFR 600.105(c), will still be required to have the appropriate Federal Gulf reef fish permits, including when fishing for the FLK/EFL stock managed by the South Atlantic Council between the Councils' jurisdictional boundary and the 25°09' N. lat. line off the west coast of Florida. Conversely, vessels fishing for hogfish in South Atlantic Federal waters will still be required to have the appropriate Federal South Atlantic snapper-grouper permits. Federal permit holders will continue to be required to follow the existing sale and logbook reporting requirements associated with the respective permits. NMFS recognizes that maintaining existing permitting requirements minimizes confusion and avoids unnecessarily burdening those fishing for hogfish under Federal

permits, while still meeting both Councils' management needs.

*Comment 3:* NMFS should increase the minimum size limit of hogfish to 14 or 15 inches (35.6 and 38.1 cm), fork length (FL), but not to 16 inches (40.6 cm), FL, for the FLK/EFL stock of hogfish. Increasing the minimum size limit to 16 inches (40.6 cm), FL, will result in an increase in discards and discard mortality related to barotrauma, especially when hogfish are harvested from deep water.

*Response:* As discussed in Amendment 37, the biological benefits to the FLK/EFL hogfish stock are greater with the larger minimum size limit of 16 inches (40.6 cm), FL, compared with 14 or 15 inches (35.6 and 38.1 cm), FL. The minimum size limit of 16 inches (40.6 cm), FL, is comparatively less disruptive to spawning aggregations and helps to rebuild the FLK/EFL hogfish stock. Hogfish begin life as females and eventually become male if they reach an older age, depending on their environmental conditions. Hogfish also form harems; one male will spawn with several females during spawning seasons that last for months. The number and gender of hogfish in a group influences the size and age range at which sexual transition occurs. Removal of the dominant male has the potential to significantly affect harem stability and decrease reproductive potential. Larger minimum size limits provide hogfish more opportunities to form harems and transition from females to males, and the South Atlantic Council determined 16 inches (40.6 cm), FL, is the appropriate minimum size limit for this stock of hogfish. In addition, while NMFS agrees that barotrauma may result in the mortality of fish when brought up to the surface from deep water, bycatch and discards would not be expected to increase substantially as a result of an increase in the minimum size limit to 16 inches (40.6 cm), FL, because the dominant mode of harvest is by spearfishing, which is highly selective, and fishers using this gear would be expected to be able to visually recognize a 16 inch (40.6 cm), FL, fish and, therefore, target legal-sized fish. NMFS is working with the South Atlantic Council on developing methods that could be considered in the future as measures to further reduce mortality resulting from barotrauma (such as removing the minimum size limit for deep-water species, requiring the use of descending devices, and recommending or requiring hook types for various species in the snapper-grouper FMU).

*Comment 4:* NMFS should not implement a 500-lb (227-kg) commercial

trip limit for the GA/NC stock of hogfish. Very few commercial spearfishers target this stock, which has rarely met the commercial ACL, and the catch history has remained consistent.

*Response:* As discussed in Amendment 37, 1 percent of commercial trips landed 500 lb (227 kg) or more of hogfish per trip off Georgia through North Carolina during 2012–2014. Average commercial landings during 2012–2014 were less than the commercial ACL for 2017 implemented by this final rule, and the 2017 commercial ACL is not expected to be reached under the 500-lb (227-kg) commercial trip limit under current fishing practices. 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 restrictions to the FLK/EFL stock. Because hogfish are more accessible to fishermen when they aggregate to reproduce, the South Atlantic Council determined that this commercial trip limit is a precautionary measure to help prevent localized depletion of the stock. Additionally, the South Atlantic Council determined a 500-lb (227-kg) commercial trip limit will help to ensure commercial harvest can take place year-round in this area.

*Comment 5:* A reduction of the recreational bag limit for the FLK/EFL stock of hogfish to 1 fish per person per day is excessive and will deter anglers from taking trips on charter vessels and headboats. The recreational bag limit for the FLK/EFL stock of hogfish should be 2 to 5 fish per person per day. The economic data for headboats in Amendment 37 for this action is inaccurate and flawed. Reducing the recreational bag limit to 3 fish per person per day combined with the actions to reduce the minimum size limit and a recreational fishing season would re-build the FLK/EFL stock of hogfish without having a large economic impact.

*Response:* The South Atlantic Council chose a recreational bag limit of 1 fish per person per day as their preferred alternative to extend the length of the recreational fishing season, while also helping to end overfishing and rebuild this overfished stock. The data in Amendment 37 show that few fishermen in the South Atlantic region catch more than 1 fish per day on recreational trips. According to data from the Marine Recreational Information Program (MRIP) from private recreational and charter trips during 2012–2014, approximately 60 percent of these trips harvested 1 or no hogfish per person per day, 78 percent harvested 2 hogfish per person per day

or less, 14 percent harvested 3 to 4 hogfish per person per day, and only 8 percent of the trips harvested 5 hogfish or more per person per day. Among headboat trips, 87 percent harvested 1 hogfish, 10 percent harvested 2 hogfish, 1 percent harvested 3 hogfish, and 2 percent harvested more than 5 hogfish per vessel per day.

In addition, the recreational bag limit of 1 fish per person per day is predicted to result in a longer recreational fishing season than bag limits of 2 to 5 fish per person per day. Analysis in Amendment 37 concludes that the recreational sector will be open for most of the annual May through October recreational season (182 days open out of 184 calendar days) under the bag limit of 1 fish per person per day.

NMFS disagrees that the economic data in Amendment 37 is inaccurate and flawed. Amendment 37 used the best scientific information available to analyze the economic effects of bag limit reductions on the recreational fishing sector. Trip-level landings estimates from MRIP and average harvest per angler data from the Southeast Region Headboat Survey (SRHS) demonstrated that the majority of anglers kept only 1 hogfish or less per person per trip from 2012 through 2014. Additionally, MRIP data (2012 through 2014) showed that on charter trips, hogfish were typically harvested with other species, and on average, greater numbers of non-hogfish than hogfish species were kept. Therefore, changes to the recreational bag limit, in general, likely would not result in changes in for-hire angler behavior, such as cancellation of pre-booked for-hire trips or a reduction in booking rates for future trips. NMFS acknowledges that uncertainty associated with the recreational survey data exists, and that some for-hire businesses may be negatively affected by the reduction to the bag limit. However, some for-hire businesses may benefit from the longer hogfish recreational season that is expected to result from the reduction in the bag limit. Due to the complex nature of angler behavior and of the for-hire industry, available data are insufficient to quantify all of these potential economic effects on individual for-hire businesses.

*Comment 6:* NMFS should not implement a closure of the recreational fishing season for the FLK/EFL stock of hogfish. If a closure is implemented, it should include the commercial sector as well.

*Response:* This final rule establishes 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 during each fishing year to protect spawning fish, maintain landings within the recreational ACL for the FLK/EFL stock, and allow the stock to rebuild. 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 demonstrated that for the FLK/EFL hogfish stock, in combination with the recreational ACL, minimum size limit, and recreational bag limit, a 6-month recreational fishing season would help to maintain recreational landings within the recreational ACL and rebuild this overfished stock.

NMFS disagrees that the seasonal closure should apply to the commercial sector. The South Atlantic Council previously established sector allocations for the hogfish stock ACL of 9.63 percent to the commercial sector and 90.37 percent to the recreational sector. Neither Amendment 37 nor this final rule changes these sector allocations for the FLK/EFL hogfish stock. The South Atlantic Council determined that an increase in the minimum size limit to 16 inches (40.6 cm), FL, and a commercial trip limit of 25 lb (11 kg) would achieve the necessary reduction in commercial harvest to help eliminate overfishing and rebuild the FLK/EFL hogfish stock, and to maintain commercial landings within the commercial ACL.

*Comment 7:* The FLK/EFL stock of hogfish is not currently overfished. The science and data that claim this stock is overfished is incorrect and is a result of biased sampling methods.

*Response:* NMFS disagrees. Amendment 37 and this final rule respond to the latest stock assessment for hogfish (SEDAR 37), which determined that the FLK/EFL stock of hogfish is overfished and undergoing overfishing. The SEDAR process is a peer-reviewed cooperative effort to assess the status of stocks in the southeast region, involving the South Atlantic, Caribbean, and Gulf of Mexico Fishery Management Councils; NMFS Southeast Fisheries Science Center (SEFSC), NMFS Southeast Regional Office, and the NMFS Highly Migratory Species Division; and the Atlantic and Gulf States Marine Fisheries Commissions. SEDAR also relies on state agencies and universities throughout the region for research, data collection, and stock assessment expertise. The Florida FWC completed

the stock assessment for hogfish under the SEDAR process, and used landings data from both state and Federal waters. Fisheries-dependent and independent data were also utilized in the stock assessment. Data included commercial harvest by gear type (hook-and-line and spear) and source (trip tickets and logbooks), and recreational harvest by gear type and from private anglers and charter vessels and headboats (MRIP and SRHS). The South Atlantic Council's SSC considered SEDAR 37 as the best scientific information available, and the SEFSC certified Amendment 37 as the best scientific information available.

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

In addition to the measures described for Amendment 37, this final rule corrects 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**

The Regional Administrator for the NMFS Southeast Region has determined that this final rule is consistent with Amendment 37, the FMP, the Magnuson-Stevens Act, and other applicable laws.

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

The Magnuson-Stevens Act provides the statutory basis for this final rule. Amendment 37 and the preamble to this final rule provide a statement of the need for and objectives of this 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 final rule.

In compliance with section 604 of the RFA, NMFS prepared a final regulatory flexibility analysis (FRFA) for this final rule. The FRFA follows.

Public comments relating to socio-economic implications and potential impacts on small businesses are addressed in the response to Comment 5 in the Comments and Responses section of this final rule. No changes to this final rule were made in response to these public comments. No comments were received from the Office of Advocacy for the Small Business Administration.

NMFS agrees that the South Atlantic Council's choice of preferred alternatives will best achieve their objectives for Amendment 37 while minimizing, to the extent practicable, the adverse effects on fishers, support industries, and associated communities.

NMFS expects this final rule to directly affect all federally-permitted commercial vessels and recreational anglers that fish for or harvest hogfish in Federal waters of the South Atlantic, and those that fish in Federal waters of the Gulf of Mexico between the Gulf and South Atlantic Council jurisdictional boundary and the new FLK/EFL hogfish stock boundary at the 25°09' N. lat. line off the west coast of Florida. As discussed in Amendment 37, the data used to assign landings to stock areas and monitor the ACL do not have high enough spatial resolution to estimate the specific fishing activity that occurs in the area between the Councils' jurisdictional boundary and the new FLK/EFL hogfish stock boundary at the 25°09' N. lat. line off the west coast of Florida. The management boundary for this stock of hogfish was selected by the South Atlantic Council because it coincides with the State of Florida's Pompano Endorsement Zone boundary, and would simplify regulations and aid in the enforcement of management regulations. Based on public testimony and comments, the South Atlantic Council concluded that the boundary line at 25°09' N. lat. off the west coast of Florida is far enough north of the Florida Keys and far enough south of Naples and Marco Island, Florida, such that it is in an area where fishing for hogfish is not a popular activity. This boundary line would not impact current approaches to ACL monitoring, and it would help simplify regulations for commercial vessels that fish for hogfish in both Gulf and South Atlantic Federal waters around the Florida Keys. In addition, it would be unlikely for fishermen to harvest hogfish belonging to the West Florida stock in the Gulf and then travel south for a long distance to land those fish in the South Atlantic. It is important to note that on the west coast of Florida, there are very few ports in Monroe County north of the Florida Keys, and this area is comprised in large part by the Everglades National Park. Based on the relatively small size of the area between the Councils' jurisdictional boundary and the new FLK/EFL hogfish stock boundary at the 25°09' N. lat. line off the west coast of Florida, as well as the public comments received and South Atlantic Council discussions, NMFS expects that commercial hogfish landings from this

area in the Gulf will be minimal. For all of the aforementioned reasons, the analysis conducted for Amendment 37, and summarized here, used commercial landings data exclusive to Federal waters of the South Atlantic off the State of Florida as a proxy for commercial landings in the new FLK/EFL stock area (including the area in the Gulf EEZ). This data was used to both identify affected vessels and estimate the economic effects of this final rule on those vessels. NMFS expects commercial hogfish landings from the FLK/EFL stock and harvested from the Gulf EEZ to be below the level that would change any of the assumptions or conclusions of the following analysis.

This final rule will not directly apply to or regulate for-hire vessels, because for-hire vessels sell fishing services to recreational anglers and the changes to the hogfish management measures in this final rule will not directly alter the services sold by these vessels. However, the changes will 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 final rule would be a consequence of behavioral change by anglers, secondary to any direct effect on anglers and, therefore, an indirect effect of the final rule. Because the effects on for-hire vessels are 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. For purposes of the RFA, NMFS 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 commercial permits and 116 valid or renewable 225-lb (102-kg) trip-limited commercial 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 final rule applies to all Federal commercial snapper-grouper permit holders, NMFS expects that only the vessels that harvest hogfish will 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 final rule are believed to be small entities based on the NMFS size standard.

No other small entities that will be directly affected by this final 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 will be affected by this final rule (approximately 20 percent). Because all entities expected to be affected by this final rule are small entities, NMFS has determined that this final rule will 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 final rule modifies the snapper-grouper FMU for hogfish, specifying two stocks of hogfish in the EEZ: (1) a GA/NC stock from the Georgia/Florida state boundary north to the North Carolina/Virginia state boundary, and (2) a FLK/EFL stock from the Florida/Georgia state boundary on the east coast of Florida, south around the Florida Keys, and then

north to the 25°09' N. lat. line off the west coast of Florida. Amendment 37 also specifies MSY and MSST values for each of these stocks. For both the GA/NC and FLK/EFL stocks, MSY is set equal to the yield produced by  $F_{MSY}$  or the  $F_{MSY}$  proxy ( $F_{30\%SPR}$ ) and MSST is set equal to 75 percent of  $SSB_{MSY}$ . Specifying separate hogfish stocks, as well as management reference points (MSY and MSST) for those stocks, is not expected to directly alter the current harvest of the hogfish resource. Therefore, these changes are not expected to have any direct economic effects on any small entities. They do, however, influence other components of this final rule that are expected to have direct economic effects.

This final rule also establishes a total ACL of 33,930 lb (15,390 kg) 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 will 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 commercial ACL is greater than the estimated status quo commercial landings for 2017, it is not 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 commercial ACL for the GA/NC stock in this final rule provides 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 represents 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 establishes a rebuilding plan, beginning in 2017, for the FLK/EFL stock, which 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

rebuilding plan provides the basis for setting ACLs but does not directly alter the current harvest of the hogfish resource. Therefore, it is not expected to have direct economic effects on any small entities.

This final rule also establishes a total ACL, in numbers of fish, for the FLK/EFL stock of hogfish for 2017 through 2027. The total ACL each year will be set equal to 95 percent of the ABC values specified in the rebuilding plan. In 2017, the total ACL will be 17,034 fish and will 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 will be set at 3,510 lb (1,592 kg) in 2017 and will 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 commercial ACL for FLK/EFL hogfish is harvested in full, it will 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 will not be substituted for the loss in hogfish revenue. Dividing the aforementioned reduction in ex-vessel revenue by the average number of commercial vessels that harvested hogfish in the FLK/EFL stock area from 2010 through 2014, results in a decrease of approximately \$819 (2014 dollars) per vessel. NMFS assumes that ex-vessel revenue from FLK/EFL hogfish will increase relative to the annual increases in the commercial ACL from 2017 through 2027, and NMFS expects the negative economic effects of this final rule on commercial vessels to decrease each year after 2017.

This final rule increases the commercial minimum size limit for both stocks of hogfish as well. The minimum size limit for the GA/NC stock is 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 is increased from 12 inches (30.5 cm), FL, to 16 inches (40.6 cm), FL.

The minimum size limit increase in this final rule for the GA/NC stock was estimated to reduce commercial landings by only 406 lb (184 kg) in 2017. This translates 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 will not be substituted for the loss in hogfish revenue. Under the commercial ACL for GA/NC hogfish, the season is expected to be open year-round and is not expected to change as a result of the minimum size limit. Assuming effort, harvest rates, and hogfish prices remain constant, then the expected economic effects of the minimum size limit in future years will be equivalent to those of 2017.

For the FLK/EFL stock, the minimum size limit increase is not expected to reduce aggregate commercial landings or ex-vessel revenue in 2017. This assumes that ex-vessel hogfish prices will be unresponsive to temporal changes in landings. In subsequent years, as the commercial ACL for the FLK/EFL stock increases, the minimum size limit in this final rule will 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 minimum size limit of 16 inches (40.6 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 will be available for harvest, this final 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 are 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 final rule also establishes commercial trip limits for each stock of hogfish. The commercial trip limit is set at 500 lb (227 kg) for the GA/NC stock and 25 lb (11 kg) for the FLK/EFL stock. Currently, there is no commercial trip limit for hogfish in the South Atlantic.

For the GA/NC stock, the 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 will not be substituted for the

loss in hogfish revenue. Based on historical harvest rates for 2012 through 2014, it is expected that the commercial trip limit of 500 lb (227 kg) will 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. The average annual revenue from all species from 2010 through 2014 for these vessels 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 commercial trip limit and minimum size limit for the GA/NC stock in this final rule are analyzed together, the combined effect on all vessels that fish for hogfish in the corresponding stock area is estimated to be a reduction in aggregate ex-vessel revenue of \$5,741 (2014 dollars).

For the FLK/EFL stock, the commercial trip limit in this final rule is not expected to reduce aggregate commercial landings or ex-vessel revenue in 2017. This conclusion assumes that prices will 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 commercial trip limit of 25 lb (11 kg) will 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 commercial trip limit, the 2017 fishing season is expected to be open 33 days longer than what would be expected under the commercial ACL of 3,510 lb (1,592 kg) with no commercial trip limit implemented. Because more trips will be required to harvest the same amount of fish, the 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,

23 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 25 lb (11 kg) commercial trip limit in this final rule. These statistics suggest that spearfishing trips may be more adversely affected, on average, by the 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 are 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, this final rule establishes commercial AMs for the GA/NC and the FLK/EFL stocks of hogfish. These AMs will 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 will 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. The AMs in this final rule are the same as the previous commercial AMs that were in place for the single hogfish stock in the South Atlantic. NMFS assumes that the commercial AMs in this final rule will maintain landings within the commercial ACL for each stock, so no direct economic effects, aside from those already discussed under the ACLs in this final rule, are expected to occur. If the AMs do not maintain commercial landings at or below the commercial ACL, then there will 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

will not be met and this provision will only affect the FLK/EFL stock. Because of the timeliness of commercial landings data for federally-permitted vessels, overages and corresponding economic effects will likely be small, should they occur.

In summary, when all of the hogfish management changes in this final rule are analyzed together, in the 2017 fishing year they will result in an estimated reduction in ex-vessel revenue of \$5,741 (2014 dollars) for all vessels combined that harvest hogfish from the GA/NC stock and \$63,086 for all vessels combined that harvest hogfish from the FLK/EFL stock. The changes to the minimum size limit and commercial trip limit also have the potential to reduce profitability by increasing harvest costs, although these economic effects cannot be estimated with available data. In fishing years subsequent to 2017, if hogfish landings from the GA/NC stock increase to reach the commercial ACL, the increase in landings would offset the loss in revenue from the new 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, NMFS assumes that ex-vessel revenue from hogfish will increase relative to the annual increases in the commercial ACL from 2017 through 2027. This will lessen the negative economic effects of this final 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 MSS) for those stocks, and establish a rebuilding plan for the FLK/EFL stock of hogfish are not 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 single South Atlantic-wide 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 establishes 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 OY, where OY equals ABC. This sub-alternative would result in a commercial ACL for the GA/NC hogfish stock of 24,690 lb (11,199 kg), which is approximately 5 percent greater than the commercial ACL in this final rule. 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 final 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 GA/NC stock ACL to account for management uncertainty. The second sub-alternative is the preferred sub-alternative in this final rule and it sets the GA/NC stock ACL equal to OY, where OY equals 95 percent of ABC. The third sub-alternative would set the GA/NC stock ACL equal to OY, where OY equals 90 percent of ABC. This sub-alternative would result in a GA/NC stock ACL that is approximately 5 percent less than the GA/NC stock ACL included in this final rule. 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 final 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 single South Atlantic-wide 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 establishes 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 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 final 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 FLK/EFL stock ACL to account for management uncertainty. The second sub-alternative is the preferred sub-alternative, which sets the FLK/EFL stock ACL equal to OY, where OY equals 95 percent of ABC. The third sub-alternative would set the FLK/EFL 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 preferred sub-alternative and, therefore, would be expected to have more direct negative economic effects on small entities than this final 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 South Atlantic-wide 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, increases 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 (40.6 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 minimum size limit in this final rule. 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 minimum size limit in this final rule. The second sub-alternative is the preferred sub-alternative, which sets 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 minimum size limit in this final rule. 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 (45.7 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 minimum size limit in this final rule 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, increases 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 minimum size limit in this final rule. 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

minimum size limit in this final rule. The third sub-alternative is the preferred sub-alternative, which increases the commercial and recreational minimum size limit to 16 inches (40.6 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 minimum size limit in this final rule 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 (40.6 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 (40.6 cm), FL, which would be expected to have less negative economic effects than the minimum size limit in this final rule in the first 2 years 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 fewer 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 maintain commercial landings of hogfish within the commercial ACL and to end overfishing of the FLK/EFL stock.

The second alternative, which was selected as preferred, establishes 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 commercial trip limit in this final rule and, thus, the first and second sub-alternatives were not selected. The third sub-alternative was selected as preferred and it sets 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 commercial trip limit in this final rule. 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 commercial trip limit for the GA/NC stock in this final rule. 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 more stringent 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, establishes 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 it sets 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 commercial ACL for the FLK/EFL stock included in this final rule. However, for each incremental increase in the commercial trip limit, the likelihood of direct negative effects on profitability would be reduced. Because of the commercial ACL increases included in this final rule, sub-alternatives 2 through 6 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 commercial trip limit in this final rule. 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 FLK/EFL 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 AMs for the single South Atlantic-wide hogfish stock for both sectors. This alternative was not selected by the South Atlantic Council because stock-specific AMs would be required to ensure landings are maintained within the commercial ACL for each stock. The second alternative was selected as preferred and it specifies commercial AMs for GA/NC and FLK/EFL stocks 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.

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is

required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as small entity compliance guides. The agency shall explain the actions that a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, NMFS prepared a fishery bulletin, which also serves as a small entity compliance guide. The fishery bulletin will be sent to all interested parties.

**Changes to Codified Text From the Proposed Rule**

In response to public comment, NMFS includes additional language in part 622 regulations to clarify the commercial trip limit when harvesting Florida Keys/East Florida hogfish in the Gulf EEZ. This final rule adds language in § 622.191 to clarify the applicability of the commercial trip limit when vessels fish for hogfish in the Gulf EEZ between 25°09' N. lat. off the west coast of Florida and the Councils' jurisdictional boundary, as specified in § 600.105(c).

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

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

Dated: July 19, 2017.

**Chris Oliver,**

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

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

**PART 622—FISHERIES OF THE CARIBBEAN, GULF 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)	Geographical 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 (40.6 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) and paragraph (b) 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 (u)(2)(i) for the limitations regarding hogfish after a commercial ACL is reached.

(b) When a vessel fishes for hogfish on a trip in the Gulf EEZ south of 25°09' N. lat. off the west coast of Florida, the vessel trip limit specified in paragraph (a)(12)(ii) of this section applies, provided persons aboard are not subject to the bag limit. See § 622.11(a) and § 622.187(a) for applicability of the bag limit.

■ 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 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

Year	Recreational ACL
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

\* \* \* \* \*  
 [FR Doc. 2017-15588 Filed 7-24-17; 8:45 am]  
**BILLING CODE 3510-22-P**