

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

[Docket No. 070718369-7771-01]

RIN 0648-AV34

**Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Amendment 30A**

**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 that would implement Amendment 30A to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP) prepared by the Gulf of Mexico Fishery Management Council (Council). This proposed rule would establish accountability measures for the commercial and recreational fisheries for greater amberjack and gray triggerfish, establish commercial quotas for greater amberjack and gray triggerfish, establish a recreational quota for greater amberjack and recreational catch limits for gray triggerfish, increase the commercial and recreational minimum size limit for gray triggerfish, increase the recreational minimum size limit for greater amberjack, and reduce the greater amberjack bag limit to zero for captain and crew of a vessel operating as a charter vessel or headboat. In addition, Amendment 30A would establish management targets and thresholds for gray triggerfish consistent with the requirements of the Sustainable Fisheries Act. This proposed rule is intended to end overfishing of greater amberjack and gray triggerfish and to rebuild these stocks to sustainable levels.

**DATES:** Written comments must be received on or before May 23, 2008.

**ADDRESSES:** You may submit comments on the proposed rule by any of the following methods:

- Federal e-Rulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Mail: Peter Hood, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.
- Fax: 727-824-5308; Attention: Peter Hood.

Instructions: All comments received are a part of the public record and will generally be posted to [http://](http://www.regulations.gov)

[www.regulations.gov](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. Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

Copies of Amendment 30A, which include a supplemental environmental impact statement (SEIS), an initial regulatory flexibility analysis (IRFA), and a regulatory impact review (RIR) may be obtained from the Gulf of Mexico Fishery Management Council, 2203 North Lois Avenue, Suite 1100, Tampa, FL 33607; telephone 813-348-1630; fax 813-348-1711; e-mail [gulfcouncil@gulfcouncil.org](mailto:gulfcouncil@gulfcouncil.org); or may be downloaded from the Council's website at <http://www.gulfcouncil.org/>.

**FOR FURTHER INFORMATION CONTACT:**

Peter Hood, telephone 727-824-5305; fax 727-824-5308; e-mail [peter.hood@noaa.gov](mailto:peter.hood@noaa.gov).

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

**Background**

The Magnuson-Stevens Act requires NMFS and regional fishery management councils to prevent overfishing and achieve, on a continuing basis, the optimum yield (OY) from federally managed fish stocks. These mandates are intended to ensure 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. The reauthorized Magnuson-Stevens Act as amended through January 12, 2007, requires the councils to establish annual catch limits (ACLs) for each stock or stock complex and accountability measures (AMs) to ensure these ACLs are not exceeded. This proposed rule addresses these

requirements for greater amberjack and gray triggerfish.

**Status of Stocks**

Greater amberjack have been under a rebuilding plan since 2003. However, a new stock assessment completed in 2006 concluded that the stock is not recovering as projected. It remains overfished and NMFS recently determined that overfishing is recurring. This proposed rule is necessary to end overfishing and adjust allowable catch levels and other management measures to bring the greater amberjack rebuilding plan back on course for stock recovery within the original 10-year time frame.

Gray triggerfish were determined to be undergoing overfishing based on the results of a 2006 stock assessment. If approved, status determination criteria proposed in Amendment 30A would result in the gray triggerfish stock being considered overfished, requiring a rebuilding plan to be implemented. Therefore, this proposed rule is necessary to set quotas and management measures to end overfishing and rebuild the gray triggerfish stock.

**Reductions Required to End Overfishing and Rebuild Stocks**

Actions in the proposed rule are designed to reduce the total landings (commercial and recreational combined) of greater amberjack by 32 percent and gray triggerfish by at least 60 percent to end overfishing and allow the stocks to recover to a biomass level capable of producing maximum sustainable yield ( $B_{MSY}$ ) within each species' respective rebuilding schedule. These landings reductions would reduce fishing mortality (F) to levels associated with harvesting OY under equilibrium conditions ( $F_{OY}$ ). This equates to a 50-percent reduction in F for greater amberjack and 54-percent reduction for gray triggerfish. In addition, Amendment 30A proposes management thresholds and targets for gray triggerfish that comply with the Sustainable Fisheries Act.

**Allocations**

Amendment 30A would establish an allocation of total allowable catch (TAC) for the greater amberjack fishery of 73 percent for the recreational sector and 27 percent for the commercial sector. This allocation is estimated to increase the recreational share of TAC by 5 percent compared to the recreational/commercial ratio for 2000-2004. For the gray triggerfish fishery, Amendment

30A proposes reducing commercial and recreational landings proportionally; therefore, there would be no change relative to the 2000–2004 ratio of landings (i.e., 79 percent recreational and 21 percent commercial).

### **Measures Applicable to the Greater Amberjack Fishery**

#### *Rebuilding Plan*

Amendment 30A would continue the 3-year stepped rebuilding plan approach implemented through Secretarial Amendment 2 to the FMP. During the rebuilding plan, directed TAC for each 3-year interval would be set equal to the TAC for the first year of the interval as defined by the constant  $F_{OY}$  projection from the latest available stock assessment, e.g. the 2006 assessment for 2008–2010. For 2008–2010, TAC would be set at 1.9 million lb (863,636 kg). TAC would remain at that level until revised via appropriate rulemaking. This rebuilding plan approach has been projected to have a better than 50–percent chance of rebuilding the stock to  $B_{MSY}$  by the end of 2012.

#### *Commercial Measures*

Based on the TAC proposed in Amendment 30A, the proposed rule would establish a commercial quota for greater amberjack of 503,000 lb (228,157 kg) for each fishing year from 2008 through 2010. The commercial quota would remain at that level until revised via appropriate rulemaking. This quota would function as an ACL and represents a 43–percent reduction in annual landings. The quota reduction, in combination with the proposed recreational restrictions and proposed accountability measures, would end overfishing and rebuild biomass to  $B_{MSY}$  by the end of 2010. The establishment of the quota should also reduce discards in proportion to the overall reduction in annual landings.

#### *Recreational Measures*

This proposed rule would establish a greater amberjack recreational quota of 1,368,000 lb (620,514 kg). This quota would function as an ACL. To help constrain the recreational harvest to this quota, the proposed rule would increase the minimum size limit to 30 inches (76 cm) fork length (FL) and prohibit captain and crew of a vessel operating as a charter vessel or headboat from retaining a bag limit of greater amberjack. In combination, these restrictions are expected to reduce recreational landings by 26 percent. Increasing the minimum size limit to 30 inches (76 cm) FL from the current 28–inch (71–cm) limit would allow more

than 50 percent of all females to mature before being landed. Although the proposed increase in the minimum size limit would increase the proportion of discards, the proposed recreational measures are expected to reduce the magnitude of dead discards because of the large reduction in recreational landings. In conjunction with the proposed commercial restrictions and the proposed accountability measures, these measures would end overfishing, and rebuild biomass to  $B_{MSY}$  by the end of 2010.

#### *Accountability Measures (AMs) for the Greater Amberjack Fishery*

This proposed rule would establish AMs for the greater amberjack fishery. These AMs are intended to ensure landings do not exceed the TAC allowed by the rebuilding plan.

If commercial or recreational landings, as estimated by the Southeast Fisheries Science Center, reach or are projected to reach the respective commercial quota or recreational quota, the proposed rule would authorize the Assistant Administrator Fisheries, NOAA, (AA) to file a notification with the Office of the Federal Register to close that sector of the fishery for the remainder of that fishing year. In addition, if the in-season closure does not prevent commercial landings from exceeding the quota, this proposed rule would authorize the AA to file a notification with the Office of the Federal Register reducing the commercial quota in the following year by the amount the quota was exceeded in the previous year. If the in-season closure does not prevent recreational landings from exceeding the quota, this proposed rule would authorize the AA to file a notification with the Office of the Federal Register to reduce the length of the following recreational fishing season for the time necessary to recover the overage from the previous year. Further, during that following year, if necessary, the AA may file additional notification with the Office of the Federal Register to readjust the reduced fishing season to ensure recreational harvest achieves but does not exceed the intended harvest level.

### **Measures Applicable to the Gray Triggerfish Fishery**

#### *Rebuilding Plan*

The Magnuson-Stevens Act specifies that no rebuilding plan shall exceed 10 years unless either biological or environmental conditions dictate otherwise. Because rebuilding projections indicate the gray triggerfish stock can rebuild in less than 10 years,

a rebuilding plan not exceeding 10 years is required. In determining the rebuilding timeframe, however, the Magnuson-Stevens Act also specifies that the status and biology of the overfished population, as well as the needs of fishing communities and interactions of the population with the marine ecosystem be taken into account. After considering these factors and requirements, the Council proposed a rebuilding plan based on fishing at a rate that optimizes yield while allowing for the stock to rebuild within 6 years. Under the proposed rebuilding plan, TAC would be 500,000 lb (226,796 kg) for 2008, 580,000 lb (263,084 kg) for 2009, and 660,000 lb (299,371 kg) for 2010. After 2010, TAC would remain at the 2010 level until revised via appropriate rulemaking.

#### *Commercial Measures*

Consistent with the proposed rebuilding plan, this proposed rule would establish a commercial gray triggerfish quota of 80,000 lb (36,287 kg) for 2008, 93,000 lb (42,184 kg) for 2009, and 106,000 lb (48,081 kg) for 2010. After 2010, the commercial quota would remain at the 2010 level until revised via appropriate rulemaking. The quotas are expected to reduce commercial landings by 61 percent, as necessary, to end overfishing. To help constrain commercial gray triggerfish harvests to the applicable quota, the proposed rule would increase the commercial minimum size limit from 12 inches TL (30 cm TL) to 14 inches FL (36 cm FL). Increasing the commercial minimum size limit would slow the rate of harvest and may help minimize any seasonal closure that may be implemented under the proposed accountability measures. Gray triggerfish have a very low release mortality rate; therefore, most undersized fish that are released survive to contribute to rebuilding the stock. Increasing the commercial size limit would also increase the spawning potential for this species.

#### *Recreational Measures*

Consistent with the proposed rebuilding program, the proposed rule would establish ACLs for the recreational fishery, which would trigger implementation of the AMs. The ACL would be 394,000 lb (178,715 kg) for 2008, 426,000 lb (193,230 kg) for 2009, and 457,000 lb (207,291 kg) for 2010 and subsequent fishing years, unless revised via subsequent rulemaking. The proposed rule would also increase the recreational gray triggerfish minimum size limit from 12 inches total length (TL) (30 cm TL) to 14 inches FL (36 cm FL). Increasing the

minimum size limit is estimated to reduce recreational landings by 60 percent. Unlike nearly all other reef fish species managed by the Council, gray triggerfish are hardy fish that have a very low release mortality rate. Only approximately 1.5 percent of gray triggerfish die after release. Also, because the number of eggs produced by a gray triggerfish increases exponentially by size and age, the minimum size limit increase would increase spawning potential.

#### *Accountability Measures (AMs) for Gray Triggerfish*

This proposed rule would establish AMs for the gray triggerfish fishery. These AMs are intended to ensure landings do not exceed the TAC allowed by the rebuilding plan.

For the commercial fishery, this proposed rule would establish quotas and ACLs. The quota levels are less than the ACLs. The ACLs would trigger implementation of the AMs. If commercial landings, as estimated by the NMFS Southeast Fisheries Science Center, Science and Research Director (SRD), reach or are projected to reach the applicable quota, the AA would file a notification with the Office of the Federal Register to close the commercial fishery for the remainder of the fishing year. In addition, if despite such closure, commercial landings exceed the applicable ACL, the AA will file a notification with the Office of the Federal Register, at or near the beginning of the following fishing year to reduce the quota for that following year by the amount the prior-year ACL was exceeded. The applicable ACLs are 105,000 lb (47,627 kg) for 2008, 122,000 lb (55,338 kg) for 2009, and 138,000 lb (62,596 kg) for 2010 and subsequent fishing years.

For the recreational fishery, this proposed rule would establish ACLs that would trigger implementation of the AMs. If recreational landings, as estimated by the SRD, exceed the applicable ACL, the AA will file a notification with the Office of the Federal Register reducing the length of the following recreational fishing season by the amount necessary to ensure recreational landings do not exceed the recreational target TAC for that following fishing year. The recreational ACLs are based on the yields under a constant fishing mortality (i.e.,  $F_{OY}$ ) rebuilding strategy that would allow the stock to rebuild within approximately 6 years. During year 1 of the rebuilding plan, the ACL is equal to the 2008 projected yield from the constant fishing mortality rebuilding plan. The year 2 ACL (2009) would be the average of the

projected yields for the first 2 years of the rebuilding plan (2008–2009). The 2010 (and thereafter) ACL would be a 3-year average of the projected yields for 2008–2010. The applicable ACLs are 394,000 lb (178,715 kg) for 2008, 426,000 lb (193,230 kg) for 2009, and 457,000 lb (207,291 kg) for 2010 and subsequent fishing years. The recreational target TACs are 356,000 lb (161,479 kg) for 2009 and 405,000 lb (183,705 kg) for 2010 and subsequent fishing years. Recreational landings would be evaluated relative to the applicable ACL as follows. For 2008, only 2008 recreational landings will be compared to the ACL; in 2009, the average of 2008 and 2009 recreational landings will be compared to the ACL; and in 2010 and subsequent fishing years, the 3-year running average recreational landings will be compared to the ACL. By averaging across multiple years, year-to-year fluctuations in landings resulting from recruitment variability, regulatory restrictions on other species, and prevailing economic conditions would be diminished.

#### *Reference Points and Thresholds for Gray Triggerfish*

The Magnuson-Stevens Act requires that each fishery management plan define reference points in the form of MSY and OY, and specify objective and measurable criteria for identifying when a fishery is overfished (minimum stock size threshold, MSST) or undergoing overfishing (maximum fishing mortality threshold, MFMT). Together, these four parameters are intended to provide fishery managers with the tools to measure fishery status and performance. MSY, MFMT, and OY were previously specified for gray triggerfish. Amendment 30A would establish and define MSST as  $(1-M) \cdot B_{30\%SPR}$ , where M is the natural mortality rate and  $B_{30\%SPR}$  is the proxy for  $B_{MSY}$ . To be consistent with NMFS' precautionary approach guidance, Amendment 30A would also revise the current specification of OY, 20 percent spawning potential ratio (SPR), to be the yield corresponding to an F defined as  $F_{OY} = 0.75 \cdot F_{MSY}$ , where  $F_{30\%SPR}$  is the proxy for  $F_{MSY}$ .

#### **Availability of Amendment 30A**

Additional background and rationale for the measures discussed above are contained in Amendment 30A. The availability of Amendment 30A was announced in the **Federal Register** on March 31, 2008 (73 FR 16829). Written comments on Amendment 30A must be received by May 30, 2008. All comments received on Amendment 30A 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 30A, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

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

NMFS prepared a SEIS for this amendment. A notice of availability for the draft SEIS was published on December 14, 2007 (72 FR 71138).

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 increase the recreational and commercial minimum size limit for gray triggerfish to 14 inches (35.6 cm) FL, increase the recreational minimum size limit for greater amberjack to 30 inches (76 cm) FL, reduce the greater amberjack bag limit for captain and crew of for-hire vessels to zero, establish quotas for greater amberjack and gray triggerfish, and establish accountability measures for greater amberjack and gray triggerfish. The Magnuson-Stevens Act provides the statutory basis for the proposed rule.

No duplicative, overlapping, or conflicting Federal rules have been identified. This proposed rule would not alter existing reporting, record-keeping, or other compliance requirements.

This proposed rule would be expected to directly affect vessels that operate in the Gulf of Mexico commercial reef fish fishery and for-hire reef fish fisheries, and reef fish dealers or processors. The Small Business Administration (SBA) has established size criteria for all major industry sectors in the U.S. including fish harvesters, for-hire operations, fish processors, and fish dealers. 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 \$6.5 million (NAICS code 713990, recreational industries). For seafood processor and dealers, rather than a receipts threshold, the SBA uses an employee threshold of 500 or fewer persons on a full-time, part-time, temporary, or other basis, at all affiliated operations for a seafood processor and 100 or fewer persons for a seafood dealer.

Due to incomplete 2006 and 2007 data at the time the assessments were conducted, 2005 fishing data were used to evaluate the expected economic impacts of the proposed actions. A commercial reef fish permit is required to operate in the Gulf of Mexico commercial reef fish fishery, and a moratorium on the issuance of new permits has been in effect since 1992. On July 1, 2005, 1,209 commercial reef fish permits were either active (not expired; 1,118 permits) or expired but eligible for renewal (91 permits), and this is assumed to comprise the universe of commercial harvest operations in the fishery. However, 1,285 vessels reported reef fish landings in 2005, including vessels that transferred permits during the year. While all commercial reef fish permitted vessels can harvest greater amberjack or gray triggerfish, only 519 vessels landed greater amberjack and 477 vessels landed gray triggerfish in 2005.

The annual average gross revenue and net income per vessel for vessels in the greater amberjack or gray triggerfish fishery is unknown. For all vessels in the commercial reef fish fishery, the average annual gross and net revenue, respectively, for vertical line vessels is estimated to range from approximately \$24,100 (2005 dollars; \$6,800 net income) to \$110,100 (\$28,500 net income), while the values for bottom longline vessels are approximately \$87,600 (2005 dollars; \$15,000 net income) to \$117,000 (\$25,500 net income). Some fleet behavior is known to exist in the commercial reef fish fishery, but the extent of such is unknown, though the maximum number of permits reported to be owned by the same entity is six. Additional permits in this and other fisheries (and associated revenues) may be linked through affiliation rules but these links cannot be made using existing data. Nevertheless, based on the average annual gross revenue information for all commercial reef fish vessels, NMFS determines, for the purpose of this

analysis, that all commercial reef fish entities potentially affected by this proposed rule are small business entities.

An estimated 1,692 vessels are permitted to operate in the Gulf of Mexico reef fish for-hire fishery. It is unknown how many of these vessels operate as headboats or charterboats, a distinction which is based on pricing behavior, and individual vessels may operate as both types of operations at different times. However, 76 vessels participate in the Federal headboat logbook program. Several entities own multiple for-hire permits, with at least one entity owning as many as 12 permits.

The average charterboat is estimated to generate approximately \$77,000 (2005 dollars) in annual revenues, while the comparable figure for an average headboat is approximately \$404,000 (2005 dollars). Based on the average annual gross revenue information for these vessels, NMFS determines, for the purpose of this analysis, that all for-hire entities potentially affected by this proposed rule are small business entities.

An estimated 227 dealers are permitted to buy and sell Gulf of Mexico reef fish species. Based on vessel logbook records for 2005, 192 of these dealers actively bought and sold greater amberjack, while 177 bought and sold gray triggerfish. All reef fish processors would be included in this total since a processor must be a dealer. Dealers often hold multiple types of permits and operate in both Federal and state fisheries. It is unknown what percentage of any of the average dealer's business comes from either greater amberjack or gray triggerfish.

Average employment information per reef fish dealer is unknown. Although dealers and processors are not synonymous entities, total employment for reef fish processors in the Southeast is estimated at approximately 700 individuals, both part and full time. While all processors must be dealers, a dealer need not be a processor. Further, processing is a much more labor-intensive exercise than dealing. Therefore, given the employment estimate for the processing sector and the total number of dealers operating in the reef fish fishery, NMFS determines that the average number of employees per dealer and processor does not surpass the SBA employment benchmark and, NMFS determines, for the purpose of this analysis, that all dealers potentially affected by this rule are small entities.

This proposed action would reduce greater amberjack harvests by 26 percent

in the recreational sector and 43 percent in the commercial sector, and gray triggerfish harvests by 60 percent and 61 percent for the recreational and commercial sectors, respectively. Although the expected harvest reductions are large, the subsequent impact on vessel profits will depend on the importance of these species to vessel revenues. In the commercial reef fish fishery, only 120 vessels landed more than 1,000 lb (454 kg) of greater amberjack in 2005 and only 31 vessels landed more than 10,000 lb (4,536 kg) of greater amberjack. For gray triggerfish, 44 vessels landed more than 1,000 lb (454 kg), and no vessels landed more than 10,000 lb (4,536 kg). Thus, 399 vessels, or approximately 77 percent of the fleet, landed less than 1,000 lb (454 kg) of greater amberjack, while 433 vessels, or approximately 91 percent of the fleet landed less than 1,000 lb (454 kg) of gray triggerfish. This suggests that relatively few vessels in the commercial reef fish fishery are dependent on greater amberjack, and even fewer would be expected to be dependent on gray triggerfish.

The proposed greater amberjack actions are projected to result in a reduction of approximately \$1.3 million in net revenues to commercial reef fish vessels over the 2008–2012 rebuilding period, or approximately \$260,000 per year. This annual loss equates to an average of approximately \$500 to \$2,200 per vessel if distributed across all vessels landing greater amberjack (519) or just vessels landing greater than 1,000 lb (454 kg) (120). The proposed gray triggerfish actions are projected to result in a reduction of approximately \$716,000 in net income during the 2008–2012 rebuilding period, or \$145,200 per year. This annual loss equates to approximately \$300 per vessel if distributed among all vessels landing gray triggerfish (477) or \$3,300 if distributed across only those vessels landing more than 1,000 lb (454 kg) of gray triggerfish (44).

While for-hire vessels do not derive revenues from greater amberjack or gray triggerfish sales, most vessels target these species at some time during the year. Assuming angler demand declines in response to the proposed restrictions for these species, revenue and profit reductions can be projected. As a result of the proposed greater amberjack actions, the for-hire sector is projected to experience a loss in net income of approximately \$763,000 per year, while the proposed gray triggerfish actions are projected to result in a loss of approximately \$514,000 per year. If these losses were distributed equally across all vessels in the fishery, the

resulting loss per vessel would be less than \$800 per vessel. Some vessels are likely more dependent on these species than other vessels due to where they fish and client preferences and, thus, may be more severely impacted by the proposed measures.

Three alternatives, including the status quo, were considered for the action to modify the greater amberjack rebuilding plan. The proposed action, the status quo, would maintain the current stepped rebuilding plan, but would update the plan with data from the 2006 stock assessment. The first alternative to the proposed action would use the same yield projections as the proposed action, but would increase the TAC annually instead of stepped increases. The second alternative to the proposed action would also increase the TAC annually, but would limit the total harvest over the 5 years of the plan to equal that under the proposed action. These alternatives were not selected as the proposed action because the Council believed the step increases would allow greater stability to the fishery while still allowing harvest to progressively increase.

Three alternatives, including the status quo, were considered for the action to specify accountability measures for greater amberjack. The proposed action would implement corrective action based on single-year fishery harvest totals. Because the greater amberjack fishery is nearer the end of the rebuilding plan, the single-year approach provides the greatest probability of ending overfishing and rebuilding the stock. The first alternative to the proposed greater amberjack accountability measures, the status quo, would not specify accountability measures and would not satisfy the requirements of the Magnuson-Stevens Act. The second alternative to the proposed greater amberjack accountability would trigger accountability actions on the single year projections for the 2008 fishing season, but trigger accountability measures through multi-year analyses thereafter. This alternative was not selected as the proposed action because multi-year assessment and corrective action would be expected to delay stock rebuilding, resulting in slower realization of benefits from a rebuilt stock.

Five alternatives, including the status quo, were considered for the action to establish management measures for the greater amberjack recreational fishery. The first alternative to the proposed suite of management measures, the status quo, would not alter current management measures and would not result in sufficient harvest reduction to

satisfy the rebuilding plan. This alternative would not, therefore, achieve the Council's objective. The second alternative to the proposed action would impose a higher size limit and thus would result in more adverse economic impacts. The third alternative to the proposed action would impose a 2-month seasonal closure. Because a closure would result in trip cancellations, this alternative would result in more adverse economic impacts than the proposed action which would simply restrict the catch but otherwise allow the fishery to remain open. The last alternative to the proposed action would impose both a seasonal closure and higher size limit, and thus would result in even more adverse economic impacts.

Five alternatives, including the status quo, were considered for the action to establish management measures for the greater amberjack commercial fishery. The first alternative to the proposed suite of management measures, the status quo, would not alter current management measures and would not result in sufficient harvest reduction to satisfy the rebuilding plan. This alternative would not, therefore, achieve the Council's objective. The second alternative to the proposed action would impose a trip limit. Although this alternative would achieve the same reduction as the proposed action, it would tend to impose a more restrictive limit on fishing operations and eventually result in more adverse economic impacts. The third alternative to the proposed action would impose an even lower trip limit and has been estimated to result in more adverse economic impacts than the proposed action. The last alternative to the proposed action would add a 3-month seasonal closure to the existing 3-month closure. Although this would achieve about the same harvest reduction as the proposed action, fishermen have already indicated they lost a good part of their market to the existing 3-month closure so adding 3 more months to the existing closed months would only exacerbate the situations fishermen would face.

Three alternatives, including sub-options and the status quo, were considered for the action to define stock benchmarks for gray triggerfish. The first alternative to the proposed action, the status quo, would maintain current definitions of OY and MFMT, but would not set an overfished threshold (MSST), which is a required component of a fishery management plan. This alternative would not, therefore, achieve the Council's objective. The second alternative to the proposed benchmarks would establish a less conservative

MSST, i.e.,  $0.5 * B_{MSY}$  versus the proposed  $0.73 * B_{MSY}$ , increasing the risk of not maintaining a healthy resource relative to the proposed action.

Three alternatives, including the status quo, were considered for the action to establish a gray triggerfish rebuilding plan. The first alternative to the proposed rebuilding plan, the status quo, would not establish a gray triggerfish rebuilding plan and would not achieve the Council's objective. The second alternative to the proposed rebuilding plan would establish a stepped plan rather than the constant F rebuilding plan under the proposed action. The stepped rebuilding plan would increase TAC in 3-year stepped intervals with TAC in each interval set equal to the first year of the corresponding TAC in the constant  $F_{OY}$ . This alternative is projected to result in greater adverse short-term economic impacts than the proposed action.

Five alternatives were considered for the action to specify accountability measures for gray triggerfish. The proposed action would impose accountability measures for the recreational sector, with the period of evaluation increasing from a 1-year to a 2-year to a 3-year running average of landings as the rebuilding plan progresses. For the commercial sector, the proposed action would evaluate landings on an annual basis. The first alternative to the proposed gray triggerfish accountability measures, the status quo, would not specify accountability measures and would not satisfy the requirements of the Magnuson-Stevens Act. The second and third alternatives to the proposed accountability measures would require corrective action only if the combined harvests of both the commercial and recreational sectors exceed the overall target levels, differing by the type of corrective action, allowing either a range of management harvest reduction tools, such as trip, bag, season, or minimum size adjustments, or limiting the corrective action to season length (closure). These alternatives were not chosen as the proposed action because they would not preserve the balance of sector allocations and would not achieve the enhanced stock recovery benefits of the proposed action. The fourth alternative to the proposed accountability measures would impose the same sector-specific and period-of-assessment requirements of the proposed action, but would result in a delay of corrective action because such action could only be imposed via temporary rulemaking as authorized by section 305(c) of the Magnuson-Stevens Act as opposed to the more timely

publication of a notification in the **Federal Register** under the proposed action. This delay would be expected to increase the severity of corrective action, thereby imposing greater adverse economic impacts relative to the proposed action.

Two alternatives, including the status quo, were considered for the action on regional gray triggerfish management. The proposed action is the status quo, which would not establish different gray triggerfish management measures for the eastern and western Gulf. The proposed action would manage gray triggerfish as a unit throughout the Gulf EEZ. The only other alternative to the proposed action would divide the management area for gray triggerfish into two regions, namely, east and west of the Mississippi river, and limit all proposed gray triggerfish restrictive measures to the region east of the Mississippi river. This alternative would be inconsistent with the identification of the species as a single stock throughout the Gulf of Mexico and would not rebuild the resource uniformly through its range and, thus, would not achieve the Council's objective.

Four alternatives, including the status quo, were considered for the action to establish management measures for the recreational gray triggerfish fishery. The first alternative to the proposed suite of management measures, the status quo, would not alter current management measures and would not result in sufficient harvest reduction to satisfy the rebuilding plan. The second alternative to the proposed action would establish a bag limit and raise the size limit for gray triggerfish while the third alternative to the proposed action would impose an even lower bag limit but retain the size limit for gray triggerfish. These additional two alternatives would not achieve the necessary harvest reductions for the recreational sector and would not, therefore, achieve the Council's objective.

Six alternatives, including the status quo, were considered for the action to establish management measures for the commercial gray triggerfish fishery. The first alternative to the proposed suite of management measures, the status quo, would not alter current management measures and would not result in sufficient harvest reduction to satisfy the rebuilding plan. The other four alternatives to the proposed action would: (1) establish a very low trip limit; (2) increase the size limit; (3) increase the size limit and impose a trip limit; and, (4) slightly increase the size limit and impose a lower trip limit. These other four alternatives are projected to result in greater harvest

reductions than are required to satisfy the rebuilding plan. Also, these alternatives were not selected as the proposed action because specifying a quota in addition to the minimum size limit, as would occur under the proposed action, was expected to provide greater control over total harvest and better ensure that rebuilding plan goals are realized.

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

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

Dated: April 2, 2008.

**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 § 622.2, the definitions of "accountability measures" and "annual catch limit" are added in alphabetical order to read as follows:

**§ 622.2 Definitions and acronyms.**

\* \* \* \* \*

*Accountability measure* means a management control implemented such that overfishing is prevented, where possible, and mitigated if it occurs.

\* \* \* \* \*

*Annual catch limit (ACL)* means the level of catch that serves as the basis for invoking accountability measures.

\* \* \* \* \*

3. In § 622.37, paragraphs (d)(3)(i) and (d)(3)(iv) are revised to read as follows:

**§ 622.37 Size limits.**

\* \* \* \* \*

(d) \* \* \*

(3) \* \* \*

(i) *Gray triggerfish*—14 inches (35.6 cm), fork length.

\* \* \* \* \*

(iv) *Greater amberjack*—30 inches (76 cm), fork length, for a fish taken by a person subject to the bag limit specified in § 622.39(b)(1)(i) and 36 inches (91.4 cm), fork length, for a fish taken by a person not subject to the bag limit.

\* \* \* \* \*

4. In § 622.39, paragraph (b)(1)(i) is revised to read as follows:

**§ 622.39 Bag and possession limits.**

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(i) *Greater amberjack*—1. However, no greater amberjack 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 § 622.42, paragraphs (a)(1)(v) and (a)(1)(vi) are added, and paragraph (a)(2) is revised to read as follows:

**§ 622.42 Quotas.**

\* \* \* \* \*

(a) \* \* \*

(1) \* \* \*

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

(vi) *Gray triggerfish*—(A) *For fishing year 2008*—80,000 lb (36,287 kg), round weight.

(B) *For fishing year 2009*—93,000 lb (42,184 kg), round weight.

(C) *For fishing year 2010 and subsequent fishing years*—106,000 lb (48,081 kg), round weight.

(2) *Recreational quotas.* The following quotas apply to persons who fish for Gulf reef fish other than under commercial vessel permits for Gulf reef fish and the applicable commercial quotas specified in paragraph (a)(1) of this section.

(i) *Recreational quota for red snapper.* The recreational quota for red snapper is 2.45 million lb (1.11 million kg), round weight.

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

\* \* \* \* \*

6. In § 622.43, paragraph (a)(1)(iii) is added to read as follows:

**§ 622.43 Closures.**

(a) \* \* \*

(1) \* \* \*

(iii) *Recreational quota for greater amberjack.* The bag and possession limit for greater amberjack in or from the Gulf EEZ is zero.

\* \* \* \* \*

7. Section 622.49 is added to subpart C to read as follows:

**§ 622.49 Accountability measures.**

(a) *Gulf reef fish*—(1) *Greater amberjack*—(i) *Commercial fishery.* If commercial landings, as estimated by the SRD, reach or are projected to reach the applicable quota specified in § 622.42(a)(1)(v), the Assistant Administrator for Fisheries, NOAA, (AA) will file a notification with the Office of the Federal Register to close the commercial fishery for the remainder of the fishing year. In addition, if despite such closure,

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

(ii) *Recreational fishery*. If recreational landings, as estimated by the SRD, reach or are projected to reach the applicable recreational quota specified in § 622.42(a)(2)(ii), the AA will file a notification with the Office of the Federal Register, to close the recreational fishery for the remainder of the fishing year. In addition, if despite such closure, recreational landings exceed the quota, the AA will file a notification with the Office of the Federal Register, at or near the beginning of the following fishing year, to reduce the length of the recreational fishing season for the following fishing year by the amount necessary to recover the overage from the prior fishing year. Further, during that following year, if necessary, the AA may file additional notification with the Office of the

Federal Register to readjust the reduced fishing season to ensure recreational harvest achieves but does not exceed the intended harvest level.

(2) *Gray triggerfish*—(i) *Commercial fishery*. If commercial landings, as estimated by the SRD, reach or are projected to reach the applicable quota specified in § 622.42(a)(1)(vi), the AA will file a notification with the Office of the Federal Register to close the commercial fishery for the remainder of the fishing year. In addition, if despite such closure, commercial landings exceed the applicable annual catch limit (ACL), the AA will file a notification with the Office of the Federal Register, at or near the beginning of the following fishing year, to reduce the quota for that following year by the amount the prior-year ACL was exceeded. The applicable ACLs are 105,000 lb (47,627 kg) for 2008, 122,000 lb (55,338 kg) for 2009, and 138,000 lb (62,596 kg) for 2010 and subsequent fishing years.

(ii) *Recreational fishery*. If recreational landings, as estimated by the SRD, exceed the applicable ACL, the AA will file a notification with the

Office of the Federal Register reducing the length of the following recreational fishing season by the amount necessary to ensure recreational landings do not exceed the recreational target total allowable catch for that following fishing year. The applicable ACLs are 394,000 lb (178,715 kg) for 2008, 426,000 lb (193,230 kg) for 2009, and 457,000 lb (207,291 kg) for 2010 and subsequent fishing years. The recreational target total allowable catches are 356,000 lb (161,479 kg) for 2009 and 405,000 lb (183,705 kg) for 2010 and subsequent fishing years. Recreational landings will be evaluated relative to the applicable ACL as follows. For 2008, only 2008 recreational landings will be compared to the ACL; in 2009, the average of 2008 and 2009 recreational landings will be compared to the ACL; and in 2010 and subsequent fishing years, the 3-year running average recreational landings will be compared to the ACL.

(b) [Reserved]

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