

1999 and continues to attain the standard based on the most recent three years of complete, quality assured ozone monitoring data. A final determination, by EPA, that the area is currently attaining the one-hour standard would relieve the area of its obligation to submit one-hour ozone contingency measures. Third, EPA is proposing to determine that the Manchester, NH marginal nonattainment area met the applicable deadline of November 15, 1993, for attaining the one-hour NAAQS for ozone. This proposed determination is based upon complete, certified, quality-assured ambient air quality monitoring data for the 1991–1993 monitoring period showing that the area had an expected ozone exceedance rate below the level of the now revoked one-hour ozone NAAQS during that period and therefore attained the standard by its applicable deadline. Fourth and last with respect to the Manchester, NH area, EPA is proposing to determine, that the area has attained the one-hour ozone standard since 1993, and continues to attain the standard based on the most recent three years of complete, quality-assured and certified ozone monitoring data.

EPA is soliciting public comments on the issues discussed in this notice or on other relevant matters. EPA will consider these comments before final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA New England Regional Office listed in the **ADDRESSES** section of this **Federal Register**.

## VI. Statutory and Executive Order Reviews

This action proposes to make determinations of attainment based on monitored air quality data, and/or does not impose additional requirements beyond those imposed by state law. For that reason, these proposed actions:

- Are not “significant regulatory actions” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Are certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Do not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

- Do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Are not economically significant regulatory actions based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Are not significant regulatory actions subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Are not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Do not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, these actions do not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

**Authority:** 42 U.S.C. 7401 *et seq.*

Dated: June 28, 2012.

### H. Curtis Spalding,

*Regional Administrator, EPA New England.*

[FR Doc. 2012–17621 Filed 7–18–12; 8:45 am]

**BILLING CODE 6560–50–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 622

[Docket No. 1206013412–2211–01]

RIN 0648–BB97

### Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Amendment 35

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

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

**SUMMARY:** NMFS proposes to implement management measures described in Amendment 35 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). If implemented, this rule would establish sector annual catch limits (ACLs) and sector annual catch targets (ACTs) for greater amberjack; revise the sector accountability measures (AMs) for greater amberjack; and establish a commercial trip limit for greater amberjack. Additionally, Amendment 35 would modify the greater amberjack rebuilding plan. The intent of Amendment 35 is to end overfishing of greater amberjack, modify the greater amberjack rebuilding plan and help achieve optimum yield (OY) for the greater amberjack resource in accordance with the requirements of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

**DATES:** Written comments must be received on or before August 20, 2012.

**ADDRESSES:** You may submit comments on the proposed rule identified by “NOAA–NMFS–2012–0107” by any of the following methods:

- **Electronic submissions:** Submit electronic comments via the Federal e-Rulemaking Portal: <http://www.regulations.gov>. Follow the “Instructions” for submitting comments.
- **Mail:** Rich Malinowski, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

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

To submit comments through the Federal e-Rulemaking Portal: <http://www.regulations.gov>, enter “NOAA–NMFS–2012–0107” in the search field and click on “search.” After you locate the document “Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Amendment 35,” click the “Submit a Comment” link in that row. This will display the comment Web form. You can then enter your submitter

information (unless you prefer to remain anonymous), and type your comment on the Web form. You can also attach additional files (up to 10MB) in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

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

For further assistance with submitting a comment, see the "Commenting" section at <http://www.regulations.gov/#!faq> or the Help section at <http://www.regulations.gov>.

Electronic copies of Amendment 35, which includes a draft environmental assessment, an initial regulatory flexibility analysis (IRFA), and a regulatory impact review, may be obtained from the Southeast Regional Office Web site at <http://sero.nmfs.noaa.gov/sf/GrouperSnapperandReefFish.htm>.

**FOR FURTHER INFORMATION CONTACT:** Rich Malinowski, Southeast Regional Office, telephone 727-824-5305, email [rich.malinowski@noaa.gov](mailto:rich.malinowski@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The reef fish fishery of the Gulf 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 Act. All greater amberjack weights discussed in this proposed rule are in round weight.

### Background

Since 1990, the Council and NMFS have implemented a series of management measures to prevent overfishing of the greater amberjack stock and achieve OY. Amendment 1 to the FMP added greater amberjack to the list of species in the FMP, set a recreational minimum size limit of 28 inches (71 cm), established a three-fish recreational bag limit, and set a commercial minimum size limit of 36 inches (91 cm) (55 FR 2079, January 22, 1990). Amendment 12 to the FMP reduced the greater amberjack recreational bag limit to one fish per person per day (61 FR 65983, December 16, 1996).

Greater amberjack were first determined to be overfished and undergoing overfishing in 2000. Secretarial Amendment 2 established a rebuilding plan for greater amberjack, starting in 2003, based on a stock assessment conducted in 2000 (68 FR 39898, July 3, 2003). A 2006 SEDAR benchmark stock assessment (SEDAR 9 2006c) determined that the greater amberjack stock was still overfished and undergoing overfishing. Amendment 30A to the FMP set the greater

amberjack stock total allowable catch at 1,871,000 lb (848,671 kg), for the 2008 through 2010 fishing years. Using an allocation of 73 percent for the recreational sector and 27 percent for the commercial sector, Amendment 30A to the FMP established a recreational quota of 1,368,000 lb (620,514 kg), and a commercial quota of 503,000 lb (228,157 kg) (73 FR 38139, July 3, 2008). Amendment 30A also established greater amberjack AMs. These AMs state that if a sector's landings reaches, or is projected to reach, the applicable quota, the sector will close for the remainder of the fishing year. Additionally, in the event of a quota overage, the respective sector's quota will be reduced in the following fishing year by the amount of the respective sector's quota overage in the prior fishing year.

### Status of Stock

In 2010, the Southeast Data, Assessment, and Review (SEDAR) stock assessment update (SEDAR 9 Update) was conducted for greater amberjack. The SEDAR 9 Update (2010) indicated that the greater amberjack stock was both overfished and undergoing overfishing.

In March 2011, the Council's Science and Statistical Committee (SSC) reviewed the update assessment, determined the assessment to be the best scientific information available, and accepted its conclusions that the stock was undergoing overfishing and is overfished. However, the SSC rejected as unreliable the absolute values that resulted in the conclusions and rejected the assessment's yield projections. The SSC believed that the yield projections were unreliable because they showed large sensitivity to small changes in initial conditions, fishing mortality rates, and catch. Therefore, the SSC did not use the stock assessment to set the overfishing limit (OFL) or the acceptable biological catch (ABC) but instead used Tier 3b of the ABC control rule that the Council was developing in the Generic Annual Catch Limit/Accountability Measure Amendment (Generic ACL Amendment). NMFS approved the Generic ACL Amendment and published a final rule implementing the management measures in that amendment in December 2011 (76 FR 82044, December 29, 2011).

Both Tier 1 and Tier 2 of the ABC control rule require stable yield projections, which were not available for greater amberjack. Tier 3 of the control rule applies when no assessment is available but landings data exist. Tier 3a applies when the stock is unlikely to undergo overfishing if future landings are equal to or moderately higher than

the mean of recent landings. Tier 3b applies when expert evaluation of the best scientific information available indicates that recent landings may be unsustainable. Tier 3b uses the average of recent annual catches to set the OFL and the ABC is set as a percentage of the OFL. The ABC control rule states that the default is to set the ABC equal to 75 percent of the OFL. The SSC decided that, given the likelihood of ongoing overfishing, Tier 3b was appropriate for greater amberjack. Therefore, instead of relying on assessment projections, the SSC set the OFL for greater amberjack equal to the weight of the mean landings for the most recent ten years (2000–2009) and recommended the ABC for three years (2011–2013) be set at 75 percent of that 10-year mean.

The Council accepted the SSC's recommendations, set the ACL equal to the ABC, and consistent with the Generic ACL Amendment, set the ACT approximately 15 percent below the ACL. Although the ACL adopted by the Council was based on landings recorded during a time period when overfishing is believed to have been occurring, in the Generic ACL Amendment the Council determined that the Tier 3b methodology would end overfishing where applicable. NMFS approved this approach when approving the Generic ACL Amendment, and finds that following this approach in Amendment 35 is consistent with the FMP as amended.

Further, greater amberjack landings are somewhat variable over the 10-year period of 2000 through 2009, and there is no discernible trend in these landings. The lack of a discernible trend in landings data supports the conclusion that the stock size is more likely than not stable enough that the ABC recommendation (i.e., 75 percent of the OFL) and management measures implemented by the Council (setting the ACT approximately 15 percent below the ACL) will provide the reduction in greater amberjack fishing mortality necessary to end overfishing and rebuild the greater amberjack stock. A new benchmark assessment for greater amberjack is scheduled to occur in 2013. When the new assessment is completed, NMFS and the Council will be able to confirm that greater amberjack has met its rebuilding schedule.

### Management Measures Contained in This Proposed Rule

This proposed rule would establish greater amberjack sector ACLs and sector ACTs (which are expressed as quotas in the regulatory text), revise the sector AMs, and establish a commercial trip limit for greater amberjack.

*ACLs and ACTs*

This rule would define specific ACLs for the greater amberjack commercial and recreational sectors. This proposed rule would also establish the ACTs (expressed as quotas in the regulatory text) for both sectors.

The National Standard 1 Guidelines (74 FR 3178, June 16, 2009) require the establishment of a mechanism for specifying ACLs in the FMP at a level such that overfishing does not occur in the fishery. Within Amendment 30A to the FMP, the Council and NMFS established greater amberjack commercial and recreational quotas that functioned as ACLs. An ACT is a management target established to account for management uncertainty in controlling the actual catch at or below the ACL. An ACT is used in the system of AMs so that the ACL is not exceeded. Therefore, a sector ACT should be set below the sector ACL to allow the sector to be closed when the ACT is projected to be reached. Amendment 35 would establish the greater amberjack ACL equal to the greater amberjack stock ABC at 1,780,000 lb (807,394 kg), and set the greater amberjack stock ACT at 1,539,000 lb (698,079 kg) based on the ACT Control Rule developed in the Generic ACL Amendment (76 FR 82044, December 29, 2011).

Sector allocations were established in Amendment 30A to the FMP and were not changed in Amendment 35. For greater amberjack, 27 percent of the ACL is allocated to the commercial sector and 73 percent of the ACL is allocated to the recreational sector.

This proposed rule would establish the greater amberjack commercial ACL at 481,000 lb (218,178 kg). The commercial ACT, which is equivalent to the greater amberjack commercial quota, would be reduced from 503,000 lb (228,157 kg), to 409,000 lb (185,519 kg). The commercial ACT would be set 15 percent below the ACL to account for management uncertainty.

This proposed rule would establish the greater amberjack recreational ACL at 1,299,000 lb (589,116 kg). The recreational ACT, which is equivalent to the greater amberjack recreational quota, would be reduced from 1,368,000 lb (620,514 kg), to 1,130,000 lb (512,559 kg). The recreational ACT would be set 13 percent below the ACL to account for management uncertainty.

*AMs*

This proposed rule would revise the AMs for both the greater amberjack commercial and recreational sectors. AMs are management controls that are implemented to prevent ACLs from

being exceeded, and to correct or mitigate overages of the ACL if they occur. There are two categories of AMs, in-season AMs (when the ACL is met or projected to be met) and post-season AMs (when the ACL is exceeded).

The current in-season AM for the greater amberjack commercial sector closes the sector when commercial landings reach or are projected to reach the applicable quota. In addition, if despite such closure the commercial landings exceed the quota, the following year's quota is reduced by the amount of the quota overage in the prior fishing year (post-season AM). This rule would implement an ACT that is less than the ACL, creating a buffer between the two. The ACT would be the quota and this rule would require that the commercial sector close when the ACT is reached or projected to be reached. By closing the commercial sector when the ACT is reached or projected to be reached, there is less probability of exceeding the ACL. In addition to this revision of the in-season AM, this rule would revise the post-season AM as follows: If commercial landings exceed the commercial ACL, then during the following fishing year, both the commercial ACT (commercial quota) and the commercial ACL will be reduced by the amount of the prior years' commercial ACL overage.

The current in-season AM for the greater amberjack recreational sector closes the sector when recreational landings reach or are projected to reach the applicable quota. In addition, if despite such closure the recreational landings exceed the quota, the following year's recreational quota is reduced by the amount of the quota overage in the prior fishing year, and the recreational fishing season is reduced by the amount necessary to recover the overage from the prior fishing year (post-season AMs). This rule would implement an ACT that is less than the ACL, creating a buffer between the two. The ACT would act as the quota and this rule would require that the recreational sector close when the ACT is reached or projected to be reached. By closing the recreational sector when the ACT is reached or projected to be reached, there is less probability of exceeding the ACL. In addition to this revision of the in-season AM, this rule would revise the post-season AMs as follows: If recreational landings exceed the recreational ACL, then during the following fishing year, both the recreational ACT (recreational quota) and the recreational ACL will be reduced by the amount of the prior year's recreational ACL overage.

*Commercial Trip Limit*

Currently, there is no trip limit for the commercial sector. This rule would establish a commercial trip limit for greater amberjack of 2,000 lb (907 kg). This trip limit would be applicable until the commercial ACT (commercial quota) is reached or projected to be reached during a fishing year and the commercial sector is closed.

**Other Action Contained in Amendment 35**

Amendment 35 would revise the rebuilding plan for greater amberjack. The greater amberjack stock is currently in its last year of a 10-year rebuilding plan that began in 2003 and ends in 2012. Amendment 35 would modify the rebuilding plan in response to the results from the SEDAR 9 Update and subsequent SSC review and recommendations for the greater amberjack ABC.

**Classification**

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the AA has determined that this proposed rule is consistent with Amendment 35, the Magnuson-Stevens Act and other applicable law, subject to further consideration after public comment.

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

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

This proposed rule would establish greater amberjack sector ACLs and sector ACTs, revise the sector AMs, and establish a commercial trip limit for greater amberjack.

The Magnuson-Stevens Act provides the statutory basis for this rule. No duplicative, overlapping, or conflicting Federal rules have been identified. This proposed rule would not introduce any changes to current reporting, record-keeping, and other compliance requirements.

NMFS expects the proposed rule to directly affect commercial fishers and for-hire operators. The Small Business Administration established size criteria

for all major industry sectors in the U.S. including fish harvesters and for-hire operations. A business involved in fish harvesting is classified as a small business if independently owned and operated, is not dominant in its field of operation (including its affiliates), and its combined annual receipts are not in excess of \$4.0 million (NAICS code 114111, finfish fishing) for all of its affiliated operations worldwide. For for-hire vessels, other qualifiers apply and the annual receipts threshold is \$7.0 million (NAICS code 713990, recreational industries).

From 2005–2010, an average of 1,096 vessels had Federal commercial Gulf reef fish permits. Based on home port states reported in their permit applications, these vessels were distributed as follows: 897 vessels in Florida, 34 vessels in Alabama, 19 vessels in Mississippi, 58 vessels in Louisiana, 79 vessels in Texas, and 9 vessels in other states. Of the total number of federally permitted vessels, 750 vessels reported landings of at least 1 lb (0.6 kg) of reef fish. These vessels generated total dockside revenues of approximately \$41.5 million dollars (2010 dollars), or an average of \$55,000 per vessel. An average of 325 vessels reported landings of at least 1 lb (0.6 kg) of greater amberjack, with these vessels distributed as follows: 259 vessels in Florida, 15 vessels in Alabama/ Mississippi, 32 in Louisiana, 32 in Texas, and 2 in other states. Dockside revenues from greater amberjack were approximately \$600,000 (2010 dollars). Based on this information, all commercial fishing vessels expected to be directly affected by this proposed rule are determined for the purpose of this analysis to be small business entities.

The for-hire fleet is comprised of charterboats, which charge a fee on a vessel basis, and headboats, which charge a fee on an individual angler (head) basis. From 2005–2010, an average of 1,493 vessels had Federal Gulf reef fish charter/headboat permits, and based on homeport states reported in their permit applications these vessels were distributed as follows: 921 vessels in Florida, 147 vessels in Alabama, 61 vessels in Mississippi, 104 vessels in Louisiana, 238 vessels in Texas, and 22 in other states. There is no information available as to how many for-hire vessels harvested or targeted greater amberjack. The Federal Gulf charter/headboat permit does not distinguish between headboats and charterboats, but in 2010, the headboat survey program included 79 headboats. The majority of headboats were located in Florida (43), followed by Texas (19),

Alabama (8), and Louisiana (4). The average charterboat is estimated to earn approximately \$89,000 (2010 dollars) in annual revenues, while the average headboat is estimated to earn approximately \$466,000 (2010 dollars). Based on these average annual revenue figures, all for-hire vessels expected to be directly affected by this proposed rule are determined for the purpose of this analysis to be small business entities.

Some fleet activity, i.e., multiple vessels owned by a single entity, may exist in both the commercial sector and the for-hire component of the recreational sector by an unknown extent, and NMFS treats all vessels as independent entities in this analysis.

NMFS expects the proposed rule to directly affect all federally permitted commercial vessels harvesting greater amberjack and for-hire vessels that operate in the Gulf reef fish fishery. All directly affected entities have been determined, for the purpose of this analysis, to be small entities. Therefore, NMFS determined that this proposed rule would affect a substantial number of small entities.

NMFS considers all entities expected to be affected by the proposed rule as small entities, so the issue of disproportional effects on small versus large entities does not arise in the present case.

Modifying the greater amberjack rebuilding plan by establishing sector ACLs and ACTs would result in a total annual revenue reduction of \$99,000 (part of which would be profits) for the entire reef fish commercial sector's vessel operations because the proposed commercial ACT is less than average commercial landings. This revenue reduction takes into account the proposed AM revision that would close the commercial sector if the ACT is reached or projected to be reached. However, it does not account for the effects of the post-season AM that would reduce the applicable sector's ACT and ACL if the ACL were exceeded in the previous year. This post-season AM would be expected to reduce vessel revenues and profits by an unknown amount. The for-hire component of the recreational sector would largely remain unaffected by the proposed ACL/ACT and AM revisions, at least in the short term. The for-hire component of the recreational sector is not expected to reach its proposed ACL/ACT, implying that there would be no trip cancellations that would lead to for-hire profit reductions.

The proposed trip limit on commercial vessels that harvest greater amberjack would result in a revenue

reduction (part of which would be profits) of \$96,000 for the entire commercial harvesting operation. Because this estimated revenue reduction presupposed the adoption of the proposed ACL/ACT, it should not be considered in addition to the reduction from the proposed ACL/ACT. The smaller reduction appears to show that because the trip limit may allow for an extension of the commercial season it would slightly mitigate the adverse effects of a lower ACL/ACT.

The negative effects of the proposed action on the profits of commercial vessels are minimal when compared to the overall industry profits from harvesting reef fish. It is possible that some vessels may rely on greater amberjack for a sizeable portion of their overall harvesting operations so their profit reductions may be relatively large, but how many vessels there are in the fishery cannot be ascertained.

Four alternatives, including the preferred alternative, and two sub-options, of which one is the preferred option, were considered for modifying the greater amberjack rebuilding plan. The first alternative, the no action alternative, would retain the greater amberjack stock ACL. This is not a viable alternative because the current stock ACL is higher than the ABC being set for greater amberjack.

Like the preferred alternative, the second alternative would set a stock ACL equal to the ABC, which is about 5 percent lower than the current stock ACL. However, this alternative would not set an ACT below the level of the ACL. Among the alternatives, this would provide the best scenario for short-term profitability of small entities. Without an ACT, however, this ACL level may be exceeded, particularly since the stock ACL has been exceeded in the last 2 years (2009 and 2010). Exceeding this ACL would lower the probability of protecting and rebuilding the overfished stock. The sub-option which was not selected would set the stock ACL at 18 percent below the current ACL. This would have the same impacts on profits as the preferred option for the current year, but it would potentially result in a worse profit condition in the subsequent year because it would require post-season overage adjustments if the quotas were exceeded. The third alternative, which would establish a stock ACL of zero, would result in the largest profit reductions to both the commercial sector and for-hire component of the recreational sector.

Two alternatives, including the preferred alternative, were considered for revising the commercial AM. The

only alternative to the preferred alternative is the no action alternative. This would result in lesser short-term profit reductions than the preferred alternative. The downside of the no action alternative is that it would subject the commercial sector to a greater likelihood of facing a post-season AM that would reduce the succeeding year's ACL and ACT and therefore commercial vessel profits as well.

Two alternatives, including the preferred alternative, were considered for revising the recreational AM. The only alternative to the preferred alternative is the no action alternative. The no action alternative would result in greater short-term profits than the preferred alternative. Its downside is that it would subject the sector to a greater likelihood of facing a post-season AM that would reduce the succeeding year's ACL and ACT and therefore for-hire vessel profits as well.

Three alternatives, including the preferred alternative, were considered for commercial management measures. The first alternative is the no action alternative and would have no effects on vessel profits. The second alternative, which would establish a vessel trip limit, while maintaining the March 1–May 31 seasonal closure, includes four options. The preferred option would establish a commercial trip limit of 2,000 lb (907 kg), which as noted above would result in a revenue reduction of \$96,000. The other options would establish a trip limit of 1,500 lb (680 kg), 1,000 lb (454 kg), or 500 lb (227 kg). Given the preferred ACL/ACT alternative, these other options would result in revenue reductions of \$95,000, \$97,000, and \$198,000, respectively. These other trip limit options would result in a longer fishing season than the preferred option. The commercial trip limit of 1,500 lb (680 kg) would result in a lower revenue reduction than the preferred option because revenue gains from a longer fishing season would outweigh revenue losses from a lower trip limit. For the other two trip limit options however, the trip limits are so low that revenue gains from a longer fishing season would not outweigh revenue losses from a lower trip limit. Profit reductions would also likely occur with these other options.

The third alternative, which would eliminate the March 1–May 31 seasonal closure, includes 4 trip limit options. The trip limit options are 2,000 lb (907 kg), 1,500 lb (680 kg), 1,000 lb (454 kg), or 500 lb (227 kg). Given the preferred ACL/ACT alternative, these options would result in revenue reductions of \$123,000, \$120,000, \$115,000, and

\$110,000 respectively. These revenue reductions for trip limits not linked with a seasonal closure are greater when compared to trip limits linked with a seasonal closure because they would result in a longer quota closure during the fishing year. Profit reductions would also likely occur with these options.

In Amendment 35, the Council considered several actions for which the no-action alternative was the preferred alternative.

Four alternatives were considered for modifying the recreational minimum size limit for greater amberjack. The first alternative is the no action alternative, which will not affect the profits of for-hire vessels. The other alternatives would raise the recreational minimum size limit to 32 in (81 cm), 34 in (86 cm), or 36 in (91 cm), fork length. These other alternatives would possibly result in for-hire vessel profit reductions to the extent that some trips would be cancelled.

Five alternatives were considered for modifying the recreational closed season for greater amberjack. The preferred alternative is the no action alternative, and so would not affect the profits of for-hire vessels. The second alternative would remove the fixed closed season so that the recreational sector would open on January 1 and would remain open until the recreational ACT (recreational quota) is reached. This alternative would result in a short-term profit increase of \$75,000 to charterboats and an unknown profit increase to headboats under the preferred ACL/ACT alternative. These profit increases hinge on the assumption that displaced effort due to the quota closure would not shift to the open season. Any effort shift would likely negate such profit increases.

The third alternative would modify the recreational sector's seasonal closure to March 1–May 31. This alternative would result in a profit loss of approximately \$300,000 to charterboats and an unknown profit loss to headboats. Profit losses would be less if displaced effort from the closed months shifted to the open months. The fourth alternative would modify the recreational seasonal closure to January 1–May 31. This alternative would result in a profit loss of approximately \$400,000 to charterboats and an unknown profit loss to headboats. Profit losses would be less if displaced effort from the closed months shifted to the open months. The fifth alternative would modify the recreational seasonal closure to June 1–July 23. In the absence of effort shifting, this alternative would result in a short-term profit increase of

approximately \$80,000 to charterboats and an unknown profit increase to headboats. Any effort shift would tend to negate these profit increases.

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

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

Dated: July 12, 2012.

**Alan D. Risenhoover,**

*Director, Office of Sustainable Fisheries, performing the functions and duties of the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

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

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

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

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

2. In § 622.42, paragraphs (a)(1)(v) and (a)(2)(ii) are revised to read as follows:

##### § 622.42 Quotas.

\* \* \* \* \*

(a) \* \* \* (1) \* \* \*

(v) Greater amberjack—409,000 lb (185,519 kg), round weight.

\* \* \* \* \*

(2) \* \* \*

(ii) *Recreational quota for greater amberjack.* The recreational quota for greater amberjack is 1,130,000 lb (512,559 kg), round weight.

\* \* \* \* \*

3. In § 622.44, paragraph (d) is added to read as follows:

##### § 622.44 Commercial trip limits.

\* \* \* \* \*

(d) *Gulf greater amberjack.* Until the quota specified in § 622.42(a)(1)(v) is reached, 2,000 lb (907 kg), round weight. See § 622.43(a)(1)(i) for the limitations regarding greater amberjack after the quota is reached.

\* \* \* \* \*

4. In § 622.49, paragraph (a)(1) is revised to read as follows:

##### § 622.49 Annual catch limits (ACLs) and accountability measures (AMs).

(a) \* \* \* (1) *Greater amberjack.* (i) *Commercial sector—(A)* If commercial landings, as estimated by the SRD, reach or are projected to reach the annual catch target (ACT) specified in § 622.42(a)(1)(v) (commercial quota), 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.

(B) In addition to the measures specified in paragraph (a)(1)(i)(A) of this section, if commercial landings, as estimated by the SRD, exceed the commercial ACL, as specified in (a)(1)(i)(C) of this section, 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 commercial ACT (commercial quota) and the commercial ACL for that following year by the amount of any commercial ACL overage in the prior fishing year.

(C) The commercial ACL for greater amberjack is 481,000 lb (218,178 kg), round weight.

(ii) *Recreational sector*—(A) If recreational landings, as estimated by the SRD, reach or are projected to reach the ACT specified in § 622.42(a)(2)(ii) (recreational quota), 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.

(B) In addition to the measures specified in paragraph (a)(1)(ii)(A) of this section, if recreational landings, as estimated by the SRD, exceed the

recreational ACL, as specified in (a)(1)(ii)(C) of this section, 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 recreational ACT (recreational quota) and the recreational ACL for that following year by the amount of any recreational ACL overage in the prior fishing year.

(C) The recreational ACL for greater amberjack is 1,299,000 lb (589,216 kg), round weight.

\* \* \* \* \*

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