

Recommended Practices 2nd Edition, 2007, and what the results have been.

F.5 Are there statistics available on the extent to which hazardous liquid pipeline operators apply the CEPA practices?

F.6 Are there statistics available that compare the number of SCC indications detected and SCC-related failures, between operators applying the CEPA practices and those applying other SCC standards or practices?

F.7 Do the CEPA practices address the full lifecycle concerns associated with SCC?

F.8 Are there additional industry practices that address SCC?

*The Effectiveness of SCC Detection Tools and Methods:*

F.9 Are there statistics available on the extent to which various tools and methods can accurately detect and determine the severity of SCC?

F.10 Are tools or methods available to accurately detect and determine the severity of SCC when it is associated with longitudinal pipe seams?

F.11 Should PHMSA require that operators perform a critical analysis of all factors that influence SCC to determine if SCC is a credible threat for each pipeline segment? What experience-based indications have proven reliable in determining whether SCC could be present?

F.12 Should PHMSA require an integrity assessment using methods capable of detecting SCC whenever a credible threat of SCC is identified?

F.13 Should PHMSA require a periodic analysis of the effectiveness of operator corrosion management programs, which integrate information about cathodic protection, coating anomalies, in-line inspection data, corrosion coupon data, corrosion inhibitor usage, analysis of corrosion products, environmental and soil data, and any other pertinent information related to corrosion management?

F.14 What further action should be taken to address corrosion issues?

F.15 If commenters suggest modification to the existing regulatory requirements, PHMSA requests that commenters be as specific as possible. In addition, PHMSA requests commenters to provide information and supporting data related to:

- The potential costs of modifying the existing regulatory requirements.
- The potential quantifiable safety and societal benefits of modifying the existing regulatory requirements.
- The potential impacts on small businesses of modifying the existing regulatory requirements.
- The potential environmental impacts of modifying the existing regulatory requirements.

### III. Regulatory Notices

#### A. Executive Order 12866 and DOT Regulatory Policies and Procedures

E.O. 12866 requires agencies to regulate in the “most cost-effective manner,” to make a “reasoned determination that the benefits of the intended regulation justify its costs,” and to develop regulations that “impose the least burden on society.” We therefore request comments, including specific data if possible, concerning the costs and benefits of revising the pipeline safety regulations to accommodate any of the changes suggested in this advance notice.

#### B. Executive Order 13132: Federalism

Executive Order 13132 requires agencies to assure meaningful and timely input by state and local officials in the development of regulatory policies that may have a substantial, direct effect on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. PHMSA is inviting comments on the effect a possible rulemaking adopting any of the amendments discussed in this document may have on the relationship between national government and the states.

#### C. Regulatory Flexibility Act

Under the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*), we must consider whether a proposed rule would have a significant economic impact on a substantial number of small entities. “Small entities” include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations under 50,000. If your business or organization is a small entity and if adoption of any of the amendments discussed in this ANPRM could have a significant economic impact on your operations, please submit a comment to explain how and to what extent your business or organization could be affected.

#### D. National Environmental Policy Act

The National Environmental Policy Act of 1969 (NEPA) requires Federal agencies to consider the consequences of Federal actions and that they prepare a detailed statement analyzing if the action significantly affects the quality of the human environment. Interested parties are invited to address the potential environmental impacts of this ANPRM. We are particularly interested

in comments about compliance measures that would provide greater benefit to the human environment or on alternative actions the agency could take that would provide beneficial impacts.

#### E. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175 requires agencies to assure meaningful and timely input from Indian tribal government representatives in the development of rules that “significantly or uniquely affect” Indian communities and that impose “substantial and direct compliance costs” on such communities. We invite Indian tribal governments to provide comments on any aspect of this ANPRM that may affect Indian communities.

#### F. Paperwork Reduction Act

Under 5 CFR Part 1320, PHMSA analyzes any paperwork burdens if any information collection will be required by a rulemaking. We invite comment on the need for any collection of information and paperwork burdens, if any.

#### G. Privacy Act Statement

Anyone can search the electronic form of comments received in response to any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). DOT’s complete Privacy Act Statement was published in the **Federal Register** on April 11, 2000 (65 FR 19477).

**Authority:** 49 U.S.C. 60101 *et seq.*; 49 CFR 1.53.

Issued in Washington, DC, on October 8, 2010.

**Jeffrey D. Wiese,**

*Associate Administrator for Pipeline Safety.*

[FR Doc. 2010-26006 Filed 10-15-10; 8:45 am]

**BILLING CODE 4910-60-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 622

[Docket No. 100803319-0475-01]

RIN 0648-BA04

#### Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Red Grouper Management Measures

**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 actions identified in a regulatory amendment 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 reduce the commercial quota for red grouper and, thus, the combined commercial quota for shallow water grouper (SWG) species, and require vessels with valid commercial Gulf of Mexico (Gulf) reef fish permits to mark their buoy gear with the official vessel number. This rule also proposes minor revisions to codified text, including a revised definition of buoy gear, re-codification of the commercial and recreational quotas for greater amberjack, revision of the recreational accountability measure for greater amberjack, and removal of outdated language for the red snapper individual fishing quota (IFQ) program. The intended effect of this proposed rule is to help prevent overfishing of red grouper while achieving optimum yield (OY) by reducing red grouper harvest consistent with the findings of the recent stock assessment for this species, and to implement technical corrections to the regulations.

**DATES:** Written comments must be received on or before November 2, 2010.

**ADDRESSES:** You may submit comments on the proposed rule identified by 0648-BA04 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:* Peter Hood, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

*Instructions:* No comments will be posted for public viewing until after the comment period has closed. 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.

To submit comments through the Federal e-rulemaking portal: <http://www.regulations.gov>, enter "NOAA-

NMFS-2010-0161" in the keyword search, then check the box labeled "Select to find documents accepting comments or submissions," then select "Send a comment or submission." NMFS will accept anonymous comments (enter N/A in the required field if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

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

Copies of the regulatory amendment, which includes an environmental assessment and a regulatory impact review, 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 Web site at <http://www.gulfcouncil.org/>.

Comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule may be submitted in writing to Rich Malinowski, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701; and OMB, by e-mail at [OIRASubmission@omb.eop.gov](mailto:OIRASubmission@omb.eop.gov), or by fax to 202-395-7285.

**FOR FURTHER INFORMATION CONTACT:** Peter Hood, 727-824-5305.

**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 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 end overfishing of stocks while achieving OY from the fishery, and to minimize bycatch and bycatch mortality to the extent practicable.

### Status of Stock

Red grouper were declared overfished and placed under a rebuilding plan in 2004. A 2007 stock assessment determined that overfishing had ended and stock biomass had increased to OY. The 2007 assessment showed the stock was rebuilt and was close to its OY spawning stock biomass level. With this update in stock status, new regulations were implemented in 2009 (74 FR 17603), that increased the commercial red grouper quota from 5.31 million lb (2.41 million kg) to 5.75 million lb (2.61 million kg) and increased the red grouper recreational bag limit from 1 fish to 2 fish (within a 4-fish grouper aggregate bag limit). In the same amendment that established these regulations (Amendment 30B to the FMP), the Council set red grouper catch limits and catch targets. The catch limit was set at the equilibrium (*i.e.*, long-term average) maximum sustainable yield (MSY) or the yield for the current year corresponding to the fishing mortality at MSY ( $F_{MSY}$ ). The catch target was set at the equilibrium OY or the yield for the current year corresponding to the fishing mortality at OY ( $F_{OY}$ ).

The objective of the 2009 Southeast Data, Assessment, and Review (SEDAR) update assessment for Gulf red grouper was to update the 2007 SEDAR 12 red grouper assessment. The 2009 SEDAR update assessment indicated that the stock continues to be neither overfished nor undergoing overfishing. However, this update assessment indicated the stock had declined since 2005. A large part of the decline was attributed to an episodic mortality event in 2005 (most likely associated with red tide) that resulted in an approximate 20 percent mortality of the red grouper stock, in addition to mortalities resulting from fishing and other natural causes. The hurricanes that impacted the Gulf region in 2005 are not considered to have contributed to this decline.

A SEDAR update assessment for Gulf gag was also conducted in 2009. Recent discussions of how the update assessment treated commercial and recreational discards prompted the Council to revisit the size distribution of gag recreational discards and the magnitude of gag commercial discards at its August 2010 meeting. Concerns regarding gag discards became apparent because of a discrepancy that resulted from the discard sizes for headboats, which were assigned using headboat observer data, and the discard sizes for the private and charter boats, which were assigned using a combination of the Mote Marine Laboratory tagging data

and four fishery-dependent data sources. A consequence of this assignment was that the imputed size distribution for the private/charter fleets during the most recent 4 years was unexpectedly narrow and close to the recreational minimum size limit; however, gag discards from headboat observer data were not truncated, *i.e.*, observer discard samples were distributed across a wider representation of gag size classes.

Therefore, the Council requested the assessment review panel reexamine the update assessment given these discrepancies in the discard information. In contrast, red grouper recreational discard sizes for all recreational vessels were assigned using headboat observer data and the imputed size distribution was not as truncated, which results in a much less substantial impact on the outcome of the assessment. Because the same concerns were not triggered for red grouper, the Council did not make a similar request to reexamine the red grouper assessment. However, the Council did recognize the effects discard estimation could have on the assessment and, therefore, requested the NMFS Southeast Fisheries Science Center review observer discard information to determine the magnitude of these effects on red grouper.

#### *Red Grouper Total Allowable Catch (TAC)*

The current red grouper TAC of 7.57 million lb (3.43 million kg), implemented in 2009 through Amendment 30B to the FMP, must be reduced to prevent overfishing of red grouper. As a result of the findings of the 2009 stock assessment update, the Council's Scientific and Statistical Committee (SSC) recommended an acceptable biological catch (ABC) level of 6.31 million lb (2.86 million kg). This amount is equal to 85 percent of the yield at  $F_{MSY}$ , which is expected to result in a less than 50-percent (15- to 45-percent) probability of overfishing. To reduce this probability of overfishing even further, the Council set the TAC at the yield associated with  $F_{OY}$ , which is consistent with the method used to set TAC in Amendment 30B to the FMP. Therefore, a reduced red grouper TAC of 5.68 million lb (2.58 million kg), which is the yield associated with  $F_{OY}$ , is contained in the regulatory amendment.

#### *Allocation*

The recreational and commercial allocations for red grouper are proposed to remain consistent with those established in Amendment 30B to the FMP. Therefore, 76 percent of the TAC

would be allocated to the commercial sector and 24 percent of the TAC would be allocated to the recreational sector.

#### *Management Measures Contained in This Proposed Rule*

The regulatory amendment would set TAC for 2011 and subsequent fishing years at the yield associated with  $F_{OY}$  of 5.68 million lb (2.58 million kg). Based on the current commercial and recreational allocations, the proposed TAC would be implemented by setting the commercial quota for Gulf red grouper at 4.32 million lb (1.96 million kg). The decrease in the red grouper quota by 1.43 million lb (0.65 million kg) would therefore decrease the combined SWG quota by 1.43 million lb (0.65 million kg) to 6.22 million lb (2.82 million kg). This reduced SWG quota would also be implemented through this rule.

Management measures for the recreational sector would remain the same. The current 2-fish bag limit would allow red grouper to stay within the annual target catch of 1.36 million lb (0.62 million kg). Preliminary estimates of 2009 recreational landings remain consistent with recent years at 0.98 million lb (0.44 million kg), which is lower than the 2011 catch target. Assuming recreational effort does not substantially increase in 2011, current regulations should be adequate to maintain the harvest at or below the annual target catch.

#### *Buoy Gear Marking Requirement and Revised Definition*

NMFS proposes requiring buoy gear used or possessed in the Gulf EEZ to be marked with the official vessel number (U.S. Coast Guard documentation number or State registration number) and proposes revising the definition of buoy gear, as defined in § 622.2, through this rulemaking. Buoy gear is listed as an authorized gear in the hook-and-line component of the Gulf reef fish fishery under the Allowable Gear Rule (§ 600.725, 64 FR 67511).

In 1990, through Amendment 1 to the Gulf Reef Fish FMP, the Council established and NMFS implemented, in § 622.34(c), a longline and buoy gear boundary, shoreward of which the directed harvest of reef fish with longlines and buoy gear was prohibited. After this boundary was established, the use of buoy gear was reduced significantly. Many reef fish bottom longline vessels began using modified versions of traditional buoy gear to continue fishing in areas where bottom longlines were prohibited through emergency regulations initiated May 1, 2009 (74 FR 20229) and revised October

21, 2009 (74 FR 53889). Subsequently, reef fish vessels that did not qualify for a bottom longline endorsement through the regulations implementing Amendment 31 to the Gulf Reef Fish FMP (75 FR 21512, April 26, 2010) are converting to buoy gear to continue fishing for reef fish in the eastern Gulf.

Buoy gear for use in the Gulf reef fish fishery is legally defined in § 622.2 as fishing gear consisting of a float and one or more weighted lines suspended there from, generally long enough to reach the bottom. A hook or hooks (usually 6–10) are on the lines at or near the end. The float and line(s) drift freely and are retrieved periodically to remove catch and re-bait hooks.

NMFS has determined the established definition of buoy gear is ambiguous and does not adequately define the type of gear traditionally used, which limits the enforceability of restrictions on this gear type. Under the current definition, there can be any number of lines suspended from a float, and although the number of hooks is recommended to be 6–10, there is no real restriction on the number of hooks that can be fished per float. Therefore, NMFS is proposing to modify its definition of buoy gear. The proposed definition is more specific, which would reduce regulatory confusion among fishery participants and would improve enforcement requirements as this gear type becomes more commonly used by the commercial reef fish sector.

#### *Re-Codification of the Quotas for Greater Amberjack*

On June 22, 2010 (75 FR 35335), NMFS published a temporary rule to implement accountability measures for commercial and recreational greater amberjack in the Gulf for the 2010 fishing year. In the course of this rulemaking, NMFS inadvertently removed the commercial and recreation quotas for greater amberjack for 2011 and subsequent fishing years. This rule proposes to re-codify those quotas as specified in § 622.42(a)(1)(v).

#### *Revision to the Recreational Accountability Measures for Greater Amberjack*

This rule proposes to revise the recreational accountability measure for greater amberjack by clarifying that if recreational landings exceed the quota, at or near the beginning of the following fishing year, the quota for that following fishing year will be reduced by the amount of the overage in the prior fishing year. This clarification is an addition to the current accountability measure which states that the length of the recreational fishing season will be

reduced by the amount necessary to recover the overage from the prior fishing year.

#### *Removal of Outdated Language for the Red Snapper IFQ Program*

On November 22, 2006 (71 FR 67447), NMFS published a final rule to implement Amendment 26 to the FMP, which established the red snapper IFQ program. During the rulemaking, two paragraphs of codified text, § 622.42(a)(1)(i)(A) and (B), were inadvertently not removed from the regulations. This rule proposes to remove this outdated language.

These additional measures are unrelated to the actions contained in the red grouper regulatory amendment.

#### **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 the regulatory amendment, 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 an IRFA, as required by section 603 of the Regulatory Flexibility Act, for this proposed rule. The IRFA describes the economic impact that 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 Magnuson-Stevens Act provides the statutory basis for the proposed rule. The proposed rule would reduce the red grouper commercial quota from 5.75 million lb (2.53 million kg) to 4.32 million lb (1.96 million kg), and thus the combined SWG commercial quota from 7.65 million lb (3.47 million kg) as specified in § 622.42(a)(1)(iii)(A) for 2011 and subsequent fishing years to 6.22 million lb (2.82 million kg) for 2011 and subsequent fishing years, and require vessels with valid commercial Gulf reef fish permits to mark their buoy gear with the official vessel number. This rule also proposes minor revisions to the codified text, including a revised definition of buoy gear, re-codification of the commercial and recreational quotas for greater amberjack, revision of the recreational accountability measure

for greater amberjack, and removal of outdated language for the red snapper IFQ program. The purpose of this proposed rule is to help prevent overfishing of red grouper while achieving OY by reducing red grouper harvest consistent with the findings of the recent stock assessment for this species.

No duplicative, overlapping, or conflicting Federal rules have been identified.

This proposed rule is expected to directly affect commercial harvesting operations. The Small Business Administration (SBA) has established size criteria for all major industry sectors in the U.S. including fish harvesters. 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 its affiliated operations worldwide.

This proposed rule is expected to directly affect commercial fishing vessels whose owners possess commercial Gulf reef fish permits or red grouper fishing quota shares. As of August 10, 2010, 951 entities possessed a valid or renewable Gulf reef fish permit. These 951 entities are expected to be directly affected by the proposed action to require vessels to mark their buoy gear with their official vessel number.

As of October 1, 2009, 970 entities owned a valid commercial Gulf reef fish permit and thus were eligible for initial shares and allocation in the grouper and tilefish IFQ program. Of these 970 entities, 908 entities initially received shares and allocation of grouper or tilefish, and 815 entities specifically received red grouper shares and an initial allocation of the commercial sector's red grouper quota in 2010. These 815 entities are expected to be directly affected by the proposed action to reduce the red grouper commercial quota.

Of the 815 entities that initially received red grouper shares, 191 were not commercially fishing in 2008 or 2009 and thus had no commercial fishing revenue during these years. On average, these 191 entities received an initial allocation of 6,459 lb (2,936 kg) of red grouper in 2010. Eight of these 191 entities also received a bottom longline endorsement in 2010. These 8 entities received a much higher initial allocation of red grouper in 2010, with an average of approximately 44,000 lb (20,000 kg).

The other 624 entities that initially received red grouper shares and allocations in 2010 were active in commercial fisheries in 2008 or 2009. The maximum annual commercial fishing revenue in 2008 or 2009 by an individual vessel with a commercial Gulf reef fish permit or red grouper fishing quota shares was approximately \$606,000 (2008 dollars). Based on this value, 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.

Of the 624 commercial fishing vessels with commercial landings in 2008 or 2009, 126 vessels did not have any red grouper landings in 2008 or 2009. Their average annual gross revenue in these 2 years was approximately \$55,800 (2008 dollars). The vast majority of these vessels' commercial fishing revenue is from a combination of landings of snapper, mackerel, dolphin, and wahoo. However, as described in the regulatory amendment, in 2009, they did become relatively more dependent on landings of highly migratory species (HMS) species and relatively less dependent on landings of deep-water grouper species. On average, in 2010, these vessels received an initial allocation of 2,524 lb (1,147) of red grouper quota. Five of these vessels also received a bottom longline endorsement in 2010.

The remaining 498 commercially active fishing vessels did have landings of red grouper in 2008 or 2009. Their average annual gross revenue from commercial fishing was approximately \$66,000 (2008 dollars) between the two years. On average, these vessels had 9,425 lb (4,284 kg) and 6,734 lb (3,061 kg) of red grouper landings in 2008 and 2009 respectively, or 8,053 lb (3,660 kg) between the 2 years. Red grouper landings accounted for approximately 35 percent of these vessels' annual average gross revenue, and thus they are relatively dependent on revenue from red grouper landings. These vessels' average initial red grouper allocation in 2010 was 8,404 lb (3,820 kg). Therefore, on average, their 2008 and 2009 red grouper landings are very near their 2010 red grouper allocation, though their red grouper landings differed considerably between 2008 and 2009.

Of these 498 vessels, 49 vessels also received a bottom longline endorsement in 2010. These particular vessels' average annual revenue was approximately \$156,000 (2008 dollars) in 2008 and 2009. Revenue from red grouper landings decreased from approximately \$104,000 to \$65,000 in 2009. Nonetheless, these vessels remain highly dependent on revenue from red

grouper landings, which averaged approximately 36,000 lb (13,364 kg) in 2008 and 23,000 lb (10,455 kg) in 2009. Their average initial 2010 allocation of red grouper was approximately 42,000 lb (19,091 kg) and thus their recent year's harvest has been within that 2010 average allocation, particularly in 2009.

The proposed rule would not alter existing reporting or record keeping requirements but would alter certain compliance requirements. Specifically, vessels with valid commercial Gulf reef fish permits would be required to mark their buoy gear with their official vessel number. The most significant burden imposed by this requirement is the time needed to mark the gear. Under the proposed definition of buoy gear, the maximum number of buoys per vessel is expected to be 20. The time required to mark each buoy is estimated to be approximately 20 minutes. Thus, the annual time burden per vessel is approximately 6.67 hours. According to the most recent data from the Bureau of Labor Statistics (BLS), the average nominal wage for fishers and fishing related workers is \$12.79, or \$12.74 in 2008 dollars. This value is used as a monetary estimate of the opportunity cost of time on a per hour basis. Thus, the annual opportunity cost per vessel resulting from this requirement is estimated to be approximately \$85. For the 951 vessels with valid or renewable commercial Gulf reef fish permits, the annual opportunity cost is estimated to be \$80,812. Since opportunity costs impose no direct financial costs, this increase in opportunity costs is not expected to reduce profit for these vessels.

The 191 entities with red grouper shares that did not participate in commercial fishing in 2008 or 2009 have no commercial fishing revenue and did not earn profit from commercial fishing in those 2 years. Under the proposed action to decrease the red grouper commercial quota, allocation of red grouper in 2011 would be reduced, on average, by approximately 1,608 lb (731 kg). Using the 2008 average price of \$2.85 per lb, this loss in allocation could potentially represent an annual loss of nearly \$4,600 in gross revenue per entity. For the eight entities with red grouper shares that also possess longline endorsements, the average annual allocation of red grouper would be reduced by nearly 11,000 lb (5,000 kg). Thus, the potential loss in gross revenue, estimated to be nearly \$31,400, could be much higher. However, in general, this potential loss in gross revenue could only reduce profit if these entities not only become active in commercial fishing, but specifically

intend to harvest red grouper in 2011 and at a level above their reduced allocation. It is important to note that the commercial sector has not harvested the commercial red grouper quota since the 2006 fishing year. Alternatively, these potential losses in gross revenue could be due to these entities' inability to sell the allocations they are losing under the proposed action, though this possibility presumes that a demand for these allocations exists. Regardless, the significance of this potential loss in gross revenue to these 191 entities cannot be evaluated given the lack of information on potential gross revenue and profit from commercial fishing in general and specifically for red grouper.

Profit estimates are not currently available for the 126 entities with red grouper shares that participated in commercial fisheries other than red grouper. However, since these vessels did not have any red grouper landings, none of their gross revenue and thus none of their profit were the result of red grouper harvests. Under the proposed action to decrease the red grouper commercial quota, the average allocation of red grouper in 2011 would be reduced by approximately 629 lb (286 kg). Using the 2008 average price of \$2.85 per pound, this loss in allocation could potentially represent an annual loss of nearly \$1,800 in gross revenue per entity. However, this potential loss in gross revenue could only lead to a loss in profit if these entities intend to become active in the red grouper component of the Gulf reef fish fishery in 2011 and at a level above their reduced allocation. Thus, for example, assuming these vessels intend to harvest red grouper in 2011 at a level equivalent to their 2010 allocation, and this harvest was in addition to, rather than in place of, their recent commercial fishing activities, the reduction in allocation could lead to a maximum loss of approximately three percent in gross revenue which could in turn reduce profit. Alternatively, losses in gross revenue could be due to these entities' inability to sell the allocations being lost under the proposed action, though this possibility presumes that a demand for the allocations exists.

Profit estimates are not currently available for the 498 entities with red grouper shares that participated in the commercial red grouper sector of the Gulf reef fish fishery in 2008 or 2009. Under the proposed action to decrease the red grouper quota, these vessels' red grouper allocations would be reduced by approximately 2,092 lb (951 kg) on average. As these vessels have been harvesting at levels near their 2010 allocation in recent years on average,

this reduction in red grouper allocation is likely to lead to a future reduction in red grouper landings and therefore gross revenue. Using the average 2008 price of \$2.85 per pound, it is estimated that these vessels could lose nearly \$6,000, or approximately 9 percent, in average annual gross revenue. A loss in gross revenue of this magnitude would likely lead to a reduction in profit.

However, for the 49 vessels with red grouper shares that were active in the red grouper component of the Gulf reef fish fishery and also received a bottom longline endorsement in 2010, their allocation of red grouper in 2011 would decrease by approximately 10,400 lb (4,727 kg) under the proposed action. For these particular vessels, the loss in red grouper landings could range from zero to the full amount of the decrease in allocation, though the latter is unlikely given new regulations restricting the use of longline gear. Even if these vessels intended to harvest red grouper in 2011 at levels comparable to 2008, prior to the implementation of regulations restricting the use of longline gear, they would only lose approximately 4,600 lb (2,091 kg) in red grouper landings rather than the full amount of their reduced allocation. This loss in landings is estimated to be valued at approximately \$13,000 in gross revenue, or 8 percent of their average annual gross revenue. Such a loss in gross revenue would likely reduce their profit. However, if they intend to harvest at levels comparable to 2009, then their reduced allocation would still be above their intended landings. Therefore, the reduction in allocation would not lead to a reduction in landings from what they would have otherwise been and thus gross revenue and profit would also not be reduced.

Two alternatives, including the status quo, were considered for the action to reduce the red grouper commercial quota to 4.32 million lb (1.96 million kg). The first alternative, the status quo, would have maintained the red grouper commercial quota at the current level of 5.75 million lb (2.61 million kg). This alternative is not consistent with the goals and objectives of the Council's plan to manage red grouper to achieve the mandates of the Magnuson-Stevens Act. Specifically, this alternative would be inconsistent with current National Standard 1 guidance because the associated TAC of 7.57 million lb (3.43 million kg) would be above the ABC of 6.31 million lb (2.86 million kg) recommended by the Council's SSC.

The second alternative would have would set the red grouper commercial quota at 4.80 million lb (2.18 million kg). This amount is equal to 85 percent

of the yield at  $F_{MSY}$ , which the SSC considered sufficient to reduce the probability that overfishing might occur in 2011. However, this alternative is inconsistent with the method established by the Council in Amendment 30B where the annual catch target would be based on the yield associated with  $F_{OY}$ .

One alternative, the status quo, was considered for the action to require vessels with valid commercial Gulf reef fish permits to mark their buoy gear with the official vessel number. The Council and NMFS have determined that the current definition of buoy gear is ambiguous. This ambiguity has led to problems with monitoring and enforcement of buoy gear regulations and thus a clearer definition of this gear type is being proposed. By not requiring the marking of buoy gear, this alternative would not improve the monitoring and enforcement of buoy gear regulations since law enforcement personnel would not be able to determine which vessel deployed the gear if the gear is left unattended.

Notwithstanding any other provision of law, no person is required to respond to, nor shall a person be subject to a penalty for failure to comply with, a collection-of-information subject to the requirements of the Paperwork Reduction Act (PRA), unless that collection-of-information displays a currently valid Office of Management and Budget (OMB) control number.

This proposed rule contains a collection-of-information requirement subject to the PRA applicable to vessels in the Gulf reef fish fishery, namely, a requirement to mark buoy gear with the official vessel number (U.S. Coast Guard documentation number or State registration number).

This requirement has been submitted to OMB for approval. The public reporting burden for this collection-of-information is estimated to average 20 minutes per buoy. This estimate of the public reporting burden includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection-of-information. Public comment is sought regarding: Whether this proposed collection-of-information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection-of-information, including through the use of automated collection techniques

or other forms of information technology. Send comments regarding the burden estimate or any other aspect of the collection-of-information requirement, including suggestions for reducing the burden, to NMFS and to OMB (*see ADDRESSES*).

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

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

Dated: October 12, 2010.

John Oliver,

Deputy Assistant Administrator for Operations, 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 definition of “buoy gear” is revised to read as follows:

#### § 622.2 Definitions and acronyms.

\* \* \* \* \*

*Buoy gear* means fishing gear that fishes vertically in the water column that consists of a single drop line suspended from a float, from which no more than 10 hooks can be connected between the buoy and the terminal end, and the terminal end contains a weight that is no more than 10 lb (4.5 kg). The drop line can be rope (hemp, manila, cotton or other natural fibers; nylon, polypropylene, spectra or other synthetic material) or monofilament, but must not be cable or wire. The gear is free-floating and not connected to other gear or the vessel. The drop line must be no greater than 2 times the depth of the water being fished. All hooks must be attached to the drop line no more than 30 ft (9.1 m) from the weighted terminal end. These hooks may be attached directly to the drop line; attached as snoods (defined as an offshoot line that is directly spliced, tied or otherwise connected to the drop line), where each snood has a single terminal hook; or as gangions (defined as an offshoot line connected to the drop line with some type of detachable clip), where each gangion has a single terminal hook.

\* \* \* \* \*

3. In § 622.6, paragraph (b)(3) is added to read as follows:

#### § 622.6 Vessel and gear identification.

\* \* \* \* \*

(b) \* \* \*

(3) *Buoy gear.* In the Gulf EEZ, if buoy gear is used or possessed, each buoy must display the official number of the vessel.

4. In § 622.42, the first sentence of the introductory text is revised; paragraphs (a)(1)(i)(A) and (B) are removed; paragraphs (a)(1)(iii)(A) and (C) are revised; and paragraphs (a)(1)(v) and (a)(2)(ii) are added to read as follows:

#### § 622.42 Quotas.

Quotas apply for the fishing year for each species or species group, unless accountability measures are implemented during the fishing year pursuant to § 622.49, due to a quota overage occurring the previous year, in which case a reduced quota will be specified through notification in the *Federal Register*. \* \* \*

(a) \* \* \*

(1) \* \* \*

(iii) \* \* \*

(A) *SWG combined*—6.22 million lb (2.82 million kg).

\* \* \* \* \*

(C) *Red grouper*—4.32 million lb (1.96 million kg).

\* \* \* \* \*

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

\* \* \* \* \*

(2) \* \* \*

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

\* \* \* \* \*

5. In § 622.49, the second sentence of paragraph (a)(1)(ii) is revised to read as follows:

#### § 622.49 Accountability measures.

(a) \* \* \*

(1) \* \* \*

(ii) \* \* \* 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 quota for that following year by the amount of the overage in the prior fishing year, and 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.

\* \* \*

\* \* \* \* \*

[FR Doc. 2010-26197 Filed 10-15-10; 8:45 am]

BILLING CODE 3510-22-P