§ 93.119 Criteria and procedures: Interim emissions in areas without motor vehicle emissions budgets.

(b) * * *

(1) * * *

(ii) The emissions predicted in the "Action" scenario are lower than emissions in the baseline year for that NAAQS as described in paragraph (e) of this section by any nonzero amount.

(2) * * *

(ii) The emissions predicted in the "Action" scenario are not greater than emissions in the baseline year for that NAAQS as described in paragraph (e) of this section.

(c) * * *

(1) * * *

(ii) The emissions predicted in the "Action" scenario are lower than emissions in the baseline year for that NAAQS as described in paragraph (e) of this section by any nonzero amount.

(2) * * *

(ii) The emissions predicted in the "Action" scenario are not greater than emissions in the baseline year for that NAAQS as described in paragraph (e) of this section.

(d) * * *

(2) The emissions predicted in the "Action" scenario are not greater than emissions in the baseline year for that NAAQS as described in paragraph (e) of this section.

(e) *Baseline year for various NAAQS.* The baseline year is defined as follows:

(1) 1990, in areas designated nonattainment for the 1990 CO NAAQS or the 1990 NO_2 NAAQS.

(2) 1990, in areas designated nonattainment for the 1990 PM_{10} NAAQS, unless the conformity implementation plan revision required by § 51.390 of this chapter defines the baseline emissions for a PM_{10} area to be those occurring in a different calendar year for which a baseline emissions inventory was developed for the purpose of developing a control strategy implementation plan.

(3) 2002, in areas designated nonattainment for the 1997 ozone NAAQS or 1997 $PM_{2.5}$ NAAQS.

(4) The most recent year for which EPA's Air Emission Reporting Rule (40 CFR part 51, subpart A) requires submission of on-road mobile source emissions inventories as of the effective date of designations, in areas designated nonattainment for a NAAQS that is promulgated after 1997.

* * * * *

§ 93.121 [Amended]

8. Section 93.121 is amended:

a. In paragraph (b) introductory text, by removing the citation "§ 93.109(n)" and adding in its place the citation "§ 93.109(g)".

b. In paragraph (c) introductory text, by removing the citation "§ 93.109(l) or (m)" and adding in its place the citation "§ 93.109(e) or (f)".

[FR Doc. 2010–19928 Filed 8–12–10; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 0907271170–0314–02]

RIN 0648–AY10

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery off the Southern Atlantic States; Amendment 17A

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS issues this proposed rule to implement Amendment 17A to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP), as prepared and submitted by the South Atlantic Fishery Management Council (Council). This proposed rule would establish an annual catch limit (ACL) for red snapper of zero, which means all harvest and possession of red snapper in or from the South Atlantic EEZ would be prohibited, and for a vessel with a Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper, harvest and possession of red snapper would be prohibited in or from state or Federal waters. To constrain red snapper harvest to the ACL, this rule would implement an area closure for South Atlantic snapper-grouper that extends from southern Georgia to northern Florida where all harvest and possession of snapper-grouper would be prohibited (except when fishing with black sea bass pots or spearfishing gear for species other than red snapper), and require the use of non-stainless steel circle hooks north of 28° N. lat. Additionally, Amendment 17A would establish a rebuilding plan for red snapper, require a monitoring program as the accountability measure (AM) for red snapper, and specify a proxy for the fishing mortality rate that will produce the maximum sustainable yield (MSY) and specify optimum yield (OY). The intended effects of this rule are to end overfishing of South Atlantic red snapper and rebuild the stock.

DATES: Comments must be received no later than 5 p.m., eastern time, on September 27, 2010.

ADDRESSES: You may submit comments, identified by "0648–AY10", by any one of the following methods:

Electronic Submissions: Submit all electronic public comments via the Federal e-Rulemaking Portal *http://www.regulations.gov*

Fax: 727–824–5308, Attn: Kate Michie

Mail: Kate Michie, 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 is over. 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–2010–0035" 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 fields, if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

Copies of Amendment 17A may be obtained from the South Atlantic Fishery Management Council, 4055 Faber Place, Suite 201, North Charleston, SC 29405; phone: 843–571–4366 or 866–SAFMC–10 (toll free); fax: 843–769–4520; e-mail: safmc@safmc.net. Amendment 17A includes an Environmental Assessment, an Initial Regulatory Flexibility Analysis (IRFA), a Regulatory Impact Review, and a Social Impact Assessment/Fishery Impact Statement.

FOR FURTHER INFORMATION CONTACT: Kate Michie, telephone: 727–824–5305; fax: 727–824–5308; e-mail: *Kate.Michie@noaa.gov*.

SUPPLEMENTARY INFORMATION: The South Atlantic snapper-grouper fishery is managed under the FMP. The FMP was prepared by the Council and implemented by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management

Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

Background

On July 8, 2008, the Council was notified that South Atlantic red snapper is undergoing overfishing and is overfished. This determination was based upon a review of the 2008 assessment of this species by the Southeast Data, Assessment, and Review panel and the Council's Scientific and Statistical Committee. To immediately address overfishing of red snapper and at the Council's request, an interim rule prohibiting all harvest and possession of red snapper in Federal waters, and in state waters for vessels holding Federal snapper-grouper permits, was published in the **Federal Register** (74 FR 63673, December 4, 2009). The extension of this interim rule (74 FR 27658, May 8, 2010) will expire December 5, 2010. Amendment 17A and this proposed rule would establish long-term management measures to end overfishing of red snapper, including the prohibition on the harvest and possession of red snapper, as well as other management measures that will help rebuild the stock.

Management Measures Contained in this Proposed Rule

This proposed rule would prohibit the harvest and possession of red snapper in or from Federal waters, in the South Atlantic, and in or from adjacent state waters for vessels holding Federal snapper-grouper permits. However, because the red snapper stock is part of a multi-species fishery, i.e., red snapper co-occur with vermilion snapper, tomtate, scup, red porgy, white grunt, black sea bass, red grouper, scamp, and other snapper-grouper species, there is significant bycatch of red snapper for fishermen targeting other snapper-grouper. This is a significant issue because release mortality rates for red snapper are estimated to be 40 percent for the recreational sector and 90 percent for the commercial sector (due to deeper waters fished by the commercial sector). Because bycatch mortality rates of red snapper are very high, and they are often caught while targeting co-occurring snapper-grouper species, a harvest prohibition of red snapper alone will not end overfishing. Therefore, this proposed rule also includes an area closure where harvest of all snapper-grouper species would be prohibited (except when fishing with black sea bass pots with valid identification tags or spearfishing gear for species other than red snapper). The proposed closed area encompasses locations from which the highest amount of landings of red snapper are reported, primarily off the coast of southern Georgia and the north and central east coast of Florida between the depths of 98 ft (30 m) and 240 ft (73 m).

Within the proposed snapper-grouper closed area, fishing for species other than red snapper using black sea bass pots that have a valid identification tag issued by the Regional Administrator (RA) attached and spearfishing gear would be permitted. Black sea bass pots would be permitted in the closed area because commercial logbook data show that red snapper are rarely taken as bycatch in these pots. Also, allowing the use of black sea pots within the closed area could help mitigate adverse socioeconomic effects caused by an area closure without impeding efforts to end overfishing of red snapper.

The use of spearfishing gear would be permitted in the closed area when fishing for species other than red snapper because spearfishing gear is highly selective and would be the least likely of all fishing gears to result in red snapper bycatch. Allowing the use of spearfishing gear may also help to offset, to a small degree, some of the adverse socioeconomic impacts expected from a large area closure. In addition to the exemptions for black sea bass pots and spearfishing gear, this proposed rule also includes a provision to allow transit of vessels with snapper-grouper species on board other than red snapper through the proposed closed area with gear appropriately stowed.

In addition to the area closure, this proposed rule would require the use of non-stainless steel circle hooks when fishing for snapper-grouper species with hook-and-line gear and natural baits north of 28° N. lat. Some studies show that circle hooks may be beneficial in reducing bycatch mortality of fish species as compared to J hooks.

Red Snapper Monitoring Program

In addition to the measures contained in this proposed rule, Amendment 17A would require a red snapper monitoring program that would utilize, but not be limited to, fishery independent data collection methods. The monitoring program would be designed to monitor rebuilding progress of the stock, and data would be employed in red snapper assessments. Stock assessments would be used to determine if the stock is rebuilding, or if additional regulatory modifications are needed to end overfishing.

Sampling could include deployment of chevron traps, cameras, and hook-and-line gear at randomly selected stations within the proposed closed area as well outside the closed area. The preferred independent monitoring program would continue the long-term data series from the Marine Resources Monitoring Assessment and Prediction (MARMAP) survey and would likely add a complementary sampling program to expand needed coverage. The improved sampling plan may increase the (1) spatial footprint to include areas from central Florida to Cape Hatteras, North Carolina, (2) sample size, and (3) number of gear types from current survey levels, thereby considerably improving program effectiveness. Aspects of the current sampling program (survey design, chevron traps, short bottom longline and rod and reel sampling) would remain the core of the improved program, enabling comparisons of data collected in the improved program with those collected during previous years by MARMAP. Additional gear could be added and utilized by both the Southeast Fisheries Science Center (SEFSC) and MARMAP, with gear effectiveness research performed by the SEFSC. SEFSC could coordinate with MARMAP to plan annual survey efforts (e.g., spatiotemporal focus of sampling) as guided by the Council and NMFS data needs. The improved monitoring program would inform fishery management decisions and would likely contribute to improved management of the stock.

Rebuilding Plan

The Magnuson-Stevens Act requires that a rebuilding plan be specified for any federally-managed species determined to be overfished. Rebuilding plans consist of a rebuilding schedule and a rebuilding strategy. Amendment 17A would define a rebuilding schedule of 35 years for red snapper. The rebuilding time period would end in 2044, and would reduce, to the maximum extent practicable, adverse socioeconomic impacts while still achieving the rebuilding goal.

Amendment 17A includes a rebuilding strategy equal to 98 percent of F_{MSY} ($98\%F_{30\%SPR}$) based a constant $F_{REBUILD}$ of 0.145, and the ACL would be zero. Under this rebuilding strategy, an initial 76 percent reduction in total mortality would be required, and the OY value would be 2,425,000 lb (1,083,632 kg) whole weight with a 53 percent probability of rebuilding by 2044. The AM for red snapper would include monitoring the catch per unit effort using both fishery-independent and fishery-dependent data gathering methods to track changes in biomass.

Maximum Sustainable Yield Proxy

Amendment 17A would specify a proxy for the fishing mortality rate that will produce the maximum sustainable yield (F_{MSY}). Initially, the Council determined F_{MSY} proxy of F40%SPR should be used for red snapper because it is more conservative than the current F_{MSY} proxy of $F_{30\%SPR}$, and would require a more significant harvest reduction to end overfishing. However, at their June 2010 meeting, the Council changed their preferred alternative from F40%SPR to $F_{30\%SPR}$. The Council recommended that the status quo FMSY proxy ($F_{30\%SPR}$) be maintained until the SEFSC is able to conduct a comprehensive review of how F_{MSY} proxies should be applied across all southeastern fisheries. The Council also suggested that the decision to apply a specific F_{MSY} proxy should be made comprehensively, considering all southeastern fisheries, rather than on a species-by-species basis. Therefore, the Council determined it would be advantageous to first determine what methodology would be most appropriate for assigning F_{MSY} proxies to species/stocks in the southeast before proceeding with a change to the current F_{MSY} proxy for red snapper.

Additionally, the Council previously specified the Minimum Stock Size Threshold (MSST) as the biomass using the formula MSST = $(1–M)*SSB_{MSY}$. This formula is recommended in the 1998 Technical Guidance Document developed by NMFS (NOAA Technical Memorandum NMFS-F/SPO–31) and represents 1 minus the natural mortality multiplied by the spawning stock biomass at MSY. The updated MSST value from the most recent red snapper stock assessment is 12,247,000 lb (5,555,146 kg), whole weight.

Availability of Amendment 17A

Additional background and rationale for the measures discussed above are contained in Amendment 17A. The availability of Amendment 17A was announced in the **Federal Register** on July 29, 2010, (75 FR 44753). Written comments on Amendment 17A must be received by September 27, 2010. All comments received on Amendment 17A 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 17A, 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 proposed rule, which consists of several actions, would introduce changes to the management of South Atlantic snapper-grouper fisheries. This rule would prohibit all commercial and recreational harvest and possession of red snapper year-round in the South Atlantic EEZ. Prohibition of red snapper applies in the South Atlantic on board a vessel for which a valid Federal charter vessel/headboat or commercial permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, i.e., in state or Federal waters. Furthermore, this rule would prohibit commercial and recreational harvest and possession of all snapper-grouper species year-round in an area that includes commercial logbook grids 2880, 2980, and 3080 between 98 ft (16 fathoms; 30 m) and 240 ft (40 fathoms; 73 m), except when fish (other than red snapper) are harvested with black sea bass pots that have a valid identification tag issued by the RA attached or fish (other than red snapper) are harvested with spearfishing gear. The prohibition on possession does not apply to a person aboard a vessel that is in transit with other snapper-grouper species on board and with fishing gear appropriately stowed. Finally, this proposed rule would require the use of non-stainless steel circle hooks when fishing for snapper-grouper with snapper-grouper hook-and-line gear and natural baits north of 28° N. lat.

The Magnuson Stevens Act provides the statutory basis for the proposed rule.

No duplicative, overlapping, or conflicting Federal rules have been identified. The proposed rule would not alter existing reporting, record keeping, or other compliance requirements, except when the vessel is in transit across the proposed closed area, during which, fishing gear must be appropriately stowed, or when the vessel is selected for the fishery independent monitoring program to track the progress of red snapper.

This proposed rule is expected to directly affect commercial harvesting and for-hire fishing operations. The Small Business Administration (SBA) has established size criteria for all major industry sectors in the U.S. including fish harvesters and for-hire operations. A business involved in fish harvesting is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of $4.0 million (NAICS code 114111, finfish fishing) for all its affiliated operations worldwide. For for-hire vessels, the other qualifiers apply and the annual receipts threshold is $7.0 million (NAICS code 713990, recreational industries).

From 2003–2007, an average of 944 vessels per year was permitted to operate in the commercial snapper-grouper fishery. Of these vessels, 749 held transferable permits and 195 held non-transferable permits. On average, 890 vessels landed 6.43 million lb (2.92 million kg) of snapper-grouper and 1.95 million lb (0.88 million kg) of other species on snapper-grouper trips. Total dockside revenues from snapper-grouper species stood at $13.81 million (2007 dollars) and from other species, at $2.30 million (2007 dollars). Considering revenues from both snapper-grouper and other species, the revenues per vessel were $18,101. An average of 27 vessels per year harvested more than 50,000 lb (22,680 kg) of snapper-grouper species per year, generating at least, at an average price of $2.15 (2007 dollars) per pound, dockside revenues of $107,500. Vessels that operate in the snapper-grouper fishery may also operate in other fisheries, the revenues of which cannot be determined with available data and are not reflected in these totals.

Although a vessel that possesses a commercial snapper-grouper permit can harvest the various snapper-grouper species, not all permitted vessels landed all of the snapper-grouper species most affected by this amendment, i.e. red snapper, gag, vermilion snapper, black sea bass, black grouper, and red grouper. The following average number of vessels landed the subject species in 2003–2007: 292 vessels landed gag, 253 vessels landed vermilion snapper, 220 vessels landed red snapper, 237 vessels landed black sea bass, 323 vessels landed black grouper, and 402 vessels landed red grouper. Combining revenues from snapper-grouper and

other species on the same trip, the average revenue (2007 dollars) per vessel for vessels landing the subject species were $20,551 for gag, $28,454 for vermilion snapper, $22,168 for red snapper, $19,034 for black sea bass, $7,186 for black grouper, and $17,164 for red grouper.

Based on revenue information, all commercial vessels directly affected by the proposed rule are considered small 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. For the period 2003–2007, an average of 1,635 vessels was permitted to operate in the snapper-grouper for-hire fishery, of which 82 are estimated to have operated as headboats. Within the total number of vessels, 227 also possessed a commercial snapper-grouper permit and are included in the summary information provided on the commercial sector. The charterboat annual average gross revenue is estimated to range from approximately $62,000-$84,000 for Florida vessels, $73,000-$89,000 for North Carolina vessels, $68,000-$83,000 for Georgia vessels, and $32,000-$39,000 for South Carolina vessels. For headboats, the corresponding estimates are $170,000-$362,000 for Florida vessels, and $149,000-$317,000 for vessels in the other states.

Based on these average revenue figures, all for-hire operations directly affected by the proposed rule are considered small entities.

Some fleet activity may exist in both the commercial and for-hire snapper-grouper sectors but its extent is unknown, and all vessels are treated as independent entities in this analysis.

All entities that are expected to be directly affected by the proposed rule are considered small entities, so no disproportionate effects on small entities relative to large entities are expected.

The proposed rule is expected to reduce short-run harvests and fishing opportunities of commercial and for-hire vessels that, in turn, would reduce their short-run revenues and profits. In the following discussion, net operating revenue is considered equivalent to profit.

Prohibiting all commercial and recreational harvest and possession of red snapper year-round in the South Atlantic EEZ and prohibiting all commercial and recreational harvest and possession of species (except when caught with spearfishing gear or black sea bass pots that have a valid identification tag issued by the RA attached) in the snapper-grouper fishery year-round in the area that includes commercial logbook grids 2880, 2980, and 3080 between 98 ft (16 fathoms; 30 m) and 240 ft (40 fathoms; 73 m) is expected to reduce net operating revenues of commercial vessels operating in the South Atlantic by an average of approximately $430,000 (4.8 percent). This measure is also expected to reduce the net operating revenues of for-hire vessels operating in the South Atlantic by approximately $5.04 million. Most of the effects would be borne by commercial and for-hire vessels operating in northeast Florida and Georgia. Moreover, most of the effects would fall on commercial vessels using vertical lines and on headboats. However, it is highly probable that the effects on headboats are overestimated due to overestimation of affected target trips by headboats.

Exempting from the closed area prohibition harvests of snapper-grouper species, except red snapper, caught with spearfishing gear or black sea bass pots that have valid identification tags would mitigate the effects of the area closures on commercial vessels. These effects are already incorporated in the estimated effects of the fishing prohibition on red snapper and fishing prohibition on snapper-grouper in the closed areas. There are no known recreational spearfishing activities in the closed areas.

Requiring the use of non-stainless steel circle hooks when fishing for snapper-grouper species with snapper-grouper hook-and-line gear north of 28° N. lat. is expected to increase the fishing costs of some commercial and for-hire vessels. Depending on the physical structure of a fish's mouth and the way that they take bait, the circle hook requirement may reduce the harvest of some desired species. The potential cost increase and harvest reduction cannot be estimated, although they are deemed to be relatively small considering that circle hooks are already used on some vessels.

The estimated short-run reductions in the net operating revenues of the directly affected small entities, particularly for-hire vessels, may be considered substantial. Small entities operating off of northeast Florida and Georgia are expected to bear most of the short-run adverse economic effects.

Fifteen alternatives, four of which comprise the proposed action, and three sub-alternatives, one of which is the proposed action, were considered for the red snapper management measures. The first alternative to the proposed action, the no action alternative, would not conform to the Magnuson-Stevens Act requirements to end the overfished and overfishing conditions of red snapper. The second alternative to the proposed action would prohibit all commercial and recreational harvest and possession of red snapper year-round in the South Atlantic EEZ. This alternative has been determined to be insufficient to rebuild the red snapper stock within the specified timeframe due to discard mortalities from fishing for co-occurring snapper-grouper species. The third alternative to the proposed action would close four logbook grids and would close all water depths in the four subject areas. This alternative would result in larger short-run adverse economic effects than the proposed action. The fourth alternative to the proposed action would close four logbook grids and would close more water depths in the shallower parts of the four subject areas. This alternative would result in larger short-run adverse economic effects than the proposed measure. The fifth alternative to the proposed action is similar to the proposed action, except that it would close four, instead of three, logbook grids. This alternative would result in slightly larger short-run adverse economic effects than the proposed action. The sixth alternative to the proposed action would close four logbook grids and would close more water depths in the deeper parts of the four subject areas. This alternative would result in larger short-run adverse economic effects than the proposed action. The seventh alternative to the proposed action differs from the proposed action by closing four additional areas and all water depths in the subject seven areas. This alternative would result in substantially larger short-run adverse economic effects than the proposed action. The eighth alternative to the proposed action differs from the proposed action by closing four additional areas and more water depths in the shallower parts of the subject seven areas. This alternative would result in substantially larger short-run adverse economic effects than the proposed action. The ninth alternative to the proposed action differs from the proposed action by closing four additional areas. This alternative would result in substantially larger short-run adverse economic effects than the proposed action. The tenth alternative to the proposed action differs from the proposed action by closing four additional areas and more water depths in the deeper parts of the subject seven areas. This alternative would result in substantially larger short-run adverse

economic effects than the proposed action. The eleventh alternative to the proposed action would, in combination with any of the alternatives that would prohibit harvest and possession of red snapper and close four or seven areas to snapper-grouper fishing, allow harvest and possession of snapper-grouper species (except red snapper) with bottom longline gear in the closed areas deeper than 50 fathoms (91 m). Relative to the proposed action, this alternative would have small adverse effects on commercial vessels and no effects on for-hire vessels. Three sub-alternatives, including the proposed action, were considered for vessels transiting through the closed areas. The first sub-alternative would be less restrictive than the proposed action by not requiring that fishing gear be appropriately stowed when vessels transit through the closed areas. This alternative would slightly mitigate the adverse economic effects of the closed areas, but it could compromise the effectiveness of enforcing regulations in the closed areas. The second sub-alternative to the proposed action would be less restrictive than the proposed action for vessels with wreckfish on board. This alternative would particularly avoid the potential unintended adverse effects on vessels fishing for wreckfish, but it could also compromise the effectiveness of enforcing regulations in the closed areas.

Three alternatives, including the proposed action, were considered for requiring the use of circle hooks. The first alternative to the proposed action, the no action alternative, would allow but would not require the use of circle hooks, and so would not entail any additional fishing cost. On the other hand, it would not take advantage of the potential afforded by circle hooks in reducing discard and bycatch mortality of red snapper, particularly in the center of the red snapper fishing area. The second alternative to the proposed action would require the use of circle hooks throughout the South Atlantic EEZ and not just north of 28° N. lat. as in the proposed action. This alternative could entail higher fishing costs than the proposed action. It could also lower vessel revenues when some species cannot be effectively caught with circle hooks, particularly in the southern areas where red snapper harvest is relatively low.

In addition to the foregoing actions, Amendment 17A also considered various alternatives for establishing an MSY proxy, a rebuilding schedule, a rebuilding strategy, and a monitoring program for red snapper.

The proposed action on the MSY proxy for red snapper is the no action alternative, which would use $F_{30\%SPR}$ as the F_{MSY} proxy. The proposed action on the rebuilding strategy for red snapper would define a rebuilding strategy that sets F_{OY} equal to 98 percent FMSY (98%$F_{30\%SPR}$), specify an ACL based on landings, establish an ACL of zero for 2010 which would remain in effect beyond 2010 until modified. OY at equilibrium would be 2,425,000 lb (1,099,961 kg) whole weight. The proposed action on the monitoring programs is to establish a fishery independent monitoring program to track the progress of red snapper. Sampling would include deployment of chevron traps, cameras, and snapper-grouperhook-and-line at randomly selected stations.

Two alternatives, including the proposed action which is the no action alternative, were considered for the MSY/MSY proxy for red snapper. The only alternative to the proposed action uses $F_{40\%SPR}$ as the proxy for F_{MSY}. This alternative is more conservative than the proposed action, and thus provides more assurance that overfishing would be ended and the stock rebuilt within the specified time frame. However, the Council recommended that the status quo proxy of F_{MSY} be maintained until the SEFSC is able to conduct a comprehensive review of how F_{MSY} proxies should be applied across all southeastern fisheries. The Council is considering a more comprehensive approach for assigning MSY proxies for red snapper and other species in southeastern fisheries.

Four alternatives, including the proposed action, were considered for the red snapper rebuilding schedule. The first alternative to the proposed action, the no action alternative, would not define a rebuilding schedule for red snapper. Considering that a previous rebuilding schedule expired in 2006 and the stock is overfished, this alternative would not meet the Magnuson-Stevens Act requirements. The second alternative to the proposed action would define a rebuilding schedule equal to 15 years, which is the shortest possible period to rebuild in the absence of fishing mortality. Even if retention of red snapper is prohibited, red snapper would still be caught since they have temporal and spatial coincidence with other species fishermen target. Hence, adopting this alternative would mean more stringent regulations than those of the proposed action, thereby affecting a wider range of fisheries and more economically important snapper-grouper species. This would result in much larger economic effects in the short run which may or may not be recouped in the long run unless those other affected snapper-grouper species become substantially abundant and fisheries become more economically important. The third alternative to the proposed action would define a rebuilding schedule equal to 25 years, which is the mid-point between the shortest possible (15 years) and maximum (35 years) timeframe to rebuild the stock. This alternative would require more stringent regulations in the short run and thus more short-run adverse economic effects than the proposed action. Uncertainties associated with assessments and effectiveness of proposed management measures to reduce red snapper mortality, particularly due to incidental catches, present some issues on rebuilding the stock in a timeframe shorter than the proposed action.

Nine alternatives, including the proposed action, were considered for the rebuilding strategy, OY, ACL, and AM. With the exception of the no action alternative, each alternative includes two sub-alternatives for the ACL, and each ACL in turn includes three alternatives for the AM. It may be noted that the three AM alternatives, which all include monitoring programs, are identical for all alternatives and sub-alternatives, so they do not merit additional discussions here. The first alternative to the proposed action, the no action alternative, would not specify an ACL and so would not meet the Magnuson-Stevens Act requirements. In addition, it would set F_{OY} at a level equivalent to 85 percent $F_{40\%SPR}$ such that OY at equilibrium equals 2,196,000 lb (996,089 kg) whole weight. This would then imply more restrictive measures than the proposed action, resulting in larger adverse economic effects in the short run. With a lower OY level, it also would tend to generate lower long-run economic benefits than the proposed action, although it could result in a more sustainable fishery because it is more biologically conservative. The second alternative to the proposed action would define a red snapper rebuilding strategy that sets FOY at a level equivalent to 85 percent F40%SPR such that OY at equilibrium equals 2,199,000 lb (997,450 kg) whole weight. This alternative would imply more restrictive measures in the short run, resulting in larger short-run adverse economic effects and potentially lower long-run benefits than the proposed action. Being more biologically conservative, however, than the proposed action, this alternative may provide a higher probability of a more

sustainable fishery. The first sub-alternative would base the ACL on landings, with the ACL equal to zero in 2010. This is identical to the proposed action. The second sub-alternative would base the ACL on total removal, with the ACL equal to 89,000 lb (40,370 kg) whole weight in 2010. This would still require prohibition of red snapper harvest by both the commercial and recreational sectors. In addition, this would require monitoring of dead discards so that total removal would not exceed the ACL. The difficulty of monitoring dead discards, together with the likelihood that self-reported discards would be understated, raises concerns regarding the eventual effectiveness of the rebuilding strategy. The third alternative to the proposed action would define a red snapper rebuilding strategy that sets FOY at a level equivalent to 75 percent F40%SPR such that OY at equilibrium equals 2,104,000 lb (954,358 kg) whole weight. This alternative would imply more restrictive measures in the short-run, resulting in larger short-run adverse economic effects and potentially lower long-run benefits than the proposed action. Because it is more biologically conservative than the proposed action, it may provide a higher probability of a more sustainable fishery. The first sub-alternative is identical to the proposed action. The second sub-alternative would base the ACL on total removal, with the ACL equal to 79,000 lb (35,834 kg) whole weight in 2010. This sub-alternative raises similar issues of concern associated with the monitoring of dead discards. The fourth alternative to the proposed action would define a red snapper rebuilding strategy that sets F_{OY} at a level equivalent to 65 percent $F_{40\%SPR}$ such that OY at equilibrium equals 1,984,000 lb (899,927 kg) whole weight. This alternative would imply more restrictive measures in the short run, resulting in larger short-run adverse economic effects. With a lower OY, it may result in lower long-run benefits than the proposed action, although it may provide a higher probability of a more sustainable fishery because it is more biologically conservative. The first sub-alternative is identical to the proposed action. The second sub-alternative would base the ACL on total removal, with the ACL equal to 68,000 lb (30,844 kg) whole weight in 2010. This sub-alternative raises similar issues of concern associated with the monitoring of dead discards. The fifth alternative to the proposed action would define a red snapper rebuilding strategy that sets FOY at a level equivalent to 97 percent $F_{40\%SPR}$ such that OY at equilibrium equals 2,287,000 lb (1,037,366 kg) whole weight. This alternative would imply more restrictive measures in the short run, resulting in larger short-run adverse economic effects. Because of a lower OY, it may result in lower long-run benefits than the proposed action, although it may result in a higher probability of a more sustainable fishery due to its being more biologically conservative than the proposed action. The first sub-alternative is identical to the proposed action. The second sub-alternative would base the ACL on total removal, with the ACL equal to 68,000 lb (30,844 kg) whole weight in 2010. This sub-alternative raises similar issues of concern associated with the monitoring of dead discards. The sixth alternative to the proposed action would define a red snapper rebuilding strategy that sets FOY at a level equivalent to 85 percent F30%SPR such that OY at equilibrium equals 2,392,000 lb (1,084,993 kg) whole weight. This alternative would imply more restrictive measures than the proposed action in the short run, resulting in larger short-run adverse economic effects and potentially lower long-run benefits because of a lower OY. The first sub-alternative is identical to the proposed action. The second sub-alternative would base the ACL on total removal, with the ACL equal to 125,000 lb (56,699 kg) whole weight in 2010. This sub-alternative raises similar issues of concern associated with the monitoring of dead discards, although the higher ACL than that of previous sub-alternatives would tend to mitigate but not erase such concerns. The seventh alternative to the proposed action would define a red snapper rebuilding strategy that sets F_{OY} at a level equivalent to 75 percent $F_{30\%SPR}$ such that OY at equilibrium equals 2,338,000 lb (1,060,499 kg) whole weight. This alternative would imply more restrictive measures in the short run, resulting in lower short-run adverse economic effects and potentially higher long-run benefits because of a lower OY. The first sub-alternative is identical to the proposed action. The second sub-alternative would base the ACL on total removal, with the ACL equal to 111,000 lb (50,349 kg) whole weight in 2010. This sub-alternative raises similar issues of concern associated with the monitoring of dead discards, although the higher ACL than that of some previous sub-alternatives would tend to mitigate but not erase such concerns. The eighth alternative to the proposed action would define a red snapper rebuilding strategy that sets F_{OY} at a level equivalent to 65 percent $F_{30\%SPR}$ such that OY at equilibrium equals 2,257,000 lb (1,023,758 kg) whole weight. This alternative would imply more restrictive measures than the proposed action in the short run, resulting in lower short-run adverse economic effects and potentially lower long-run benefits because of a lower OY. The first sub-alternative is identical to the proposed action. The second sub-alternative would base the ACL on total removal, with the ACL equal to 97,000 lb (43,998 kg) whole weight in 2010. This sub-alternative raises similar issues of concern associated with the monitoring of dead discards, particularly that the ACL is lower than that of some previous sub-alternatives.

Three alternatives, including the proposed action, were considered for the red snapper monitoring program. The first alternative, the no action alternative, would not entail any additional cost by utilizing existing data collection programs. However, existing data collection programs may not be adequate to collect vital information on red snapper during the time harvest of the species is prohibited. The second alternative to the proposed action would establish a red snapper fishery dependent monitoring program involving for-hire vessels. This alternative offers some potential, as does the proposed action, in collecting the needed information on red snapper, especially during the period when harvest of the species is prohibited. Although the near ideal approach is to combine this alternative with the proposed action, funding for both may not be available on a continuing basis.

List of Subjects in 50 CFR Part 622

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

Dated: August 10, 2010.

Eric C. Schwaab,

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 § 622.32, paragraph (b)(3)(vi) is added to read as follows:

§ 622.32 Prohibited and limited-harvest species.

* * * * *

(b) * * *

(3) * * *

(vi) Red snapper may not be harvested or possessed in or from the South Atlantic EEZ. Such fish caught in the South Atlantic EEZ must be released immediately with a minimum of harm. In addition, for a person on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, the provisions of this closure apply in the South Atlantic, regardless of where such fish are harvested, i.e., in state or Federal waters.

* * * * *

3. In § 622.35, paragraph (l) is revised to read as follows:

§ 622.35 Atlantic EEZ seasonal and/or area closures.

* * * * *

(l) *Area closure for South Atlantic snapper-grouper.* (1) No person may harvest or possess a South Atlantic snapper-grouper in or from the South Atlantic EEZ in the closed area defined in paragraph (1)(2) of this section, except a person harvesting South Atlantic snapper-grouper (see § 622.32(b)(3) for the current prohibitions on the harvest and possession of red snapper and other snapper-grouper species) with spearfishing gear or with a sea bass pot that has a valid identification tag issued by the RA attached, as specified in § 622.6(b)(1)(i)(B). This prohibition on possession does not apply to a person aboard a vessel that is transiting through the closed area with fishing gear appropriately stowed as specified in paragraph (l)(3) of this section.

(2) The area closure for South Atlantic snapper-grouper is bounded by rhumb lines connecting, in order, the following points:

Point	North lat.	West long.
A	28°00′00″	80°00′00″
B	28°00′00″	80°10′57″
C	29°31′40″	80°30′34″
D	30°02′03″	80°50′45″
E	31°00′00″	80°35′19″
F	31°00′00″	80°00′00″
G	30°52′54″	80°00′00″
H	30°27′19″	80°11′41″
I	29°54′31″	80°15′51″
J	29°24′24″	80°13′32″
K	28°27′20″	80°00′00″
A	28°00′00″	80°00′00″

(3) For the purpose of paragraph (l)(1) of this section, continuous transiting or transit through means that a fishing vessel crosses the area closure on a constant heading, along a continuous straight line course, while underway, making way, not anchored, and by means of a source of power at all times (not including drifting by means of the prevailing water current or weather conditions). Fishing gear appropriately stowed means -

(i) A longline may be left on the drum if all gangions and hooks are disconnected and stowed below deck. Hooks cannot be baited. All buoys must be disconnected from the gear; however, buoys may remain on deck.

(ii) A trawl or try net may remain on deck, but trawl doors must be disconnected from such net and must be secured.

(iii) A gillnet, stab net, or trammel net must be left on the drum. Any additional such nets not attached to the drum must be stowed below deck.

(iv) Terminal gear (i.e., hook, leader, sinker, flasher, or bait) used with an automatic reel, bandit gear, buoy gear, trolling gear, handline, or rod and reel must be disconnected and stowed separately from such fishing gear. A rod and reel must be removed from the rod holder and stowed securely on or below deck.

(v) A crustacean trap or golden crab trap cannot be baited. All buoys must be disconnected from the gear; however, buoys may remain on deck.

(vi) Other stowage methods may be authorized by the Regional Administrator in the future. These would be published in the **Federal Register** and become effective at that time.

* * * * *

4. In § 622.37, paragraph (e)(1)(v) is revised to read as follows:

§ 622.37 Size limits.

* * * * *

(e) * * *

(1) * * *

(v) Red snapper -20 inches (50.8 cm), TL, however, see § 622.32(b)(3)(vii) for the current prohibition on the harvest and possession of red snapper.

* * * * *

5. In § 622.39, paragraph (d)(1)(iv) and (d)(1)(viii) are revised and paragraph (d)(1)(ix) is added to read as follows:

§ 622.39 Bag and possession limits.

* * * * *

(d) * * *

(1) * * *

(iv) Snappers, combined -10. However, excluded from this 10–fish bag limit are cubera snapper, measuring 30 inches (76.2 cm), TL, or larger, in the South Atlantic off Florida, and red snapper and vermilion snapper. (See § 622.32(b)(3)(vii) for the prohibition on harvest and possession of red snapper and § 622.32(c)(2) for limitations on cubera snapper measuring 30 inches (76.2 cm), TL, or larger, in or from the South Atlantic EEZ off Florida.)

* * * * *

(viii) South Atlantic snapper-grouper, combined -20. However, excluded from this 20–fish bag limit are tomtate, blue runner, and those specified in paragraphs (d)(1)(i) through (vii), and (ix) of this section.

(ix) No red snapper may be retained.

* * * * *

6. In § 622.41, paragraph (n) introductory text is revised and paragraph (n)(2) is added to read as follows:

§ 622.41 Species specific limitations.

* * * * *

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

* * * * *

(2) *Non-stainless steel circle hooks.* Non-stainless steel circle hooks are required when fishing with hook-and-line gear and natural baits north of 28° N. lat.

7. In § 622.45, paragraph (d)(10) is added to read as follows:

§ 622.45 Restrictions on sale and purchase.

* * * * *

(d) * * *

(10) No person may sell or purchase a red snapper harvested from or possessed in the South Atlantic, i.e., state or Federal waters, by a vessel for which a Federal commercial permit for South Atlantic snapper-grouper has been issued.

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[FR Doc. 2010–20070 Filed 8–12–10; 8:45 am]

BILLING CODE 3510–22–S