

impact on a substantial number of small entities. The factual basis for this determination was published in the proposed rule and is not repeated here. No comments were received regarding the certification. As a result, a final regulatory flexibility analysis was not required and none was prepared.

List of Subjects in 50 CFR Part 229

Administrative practice and procedure, Confidential business information, Fisheries, Marine mammals, Reporting and recordkeeping requirements.

Dated: June 23, 2012.

Alan D. Risenhoover,

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

For the reasons set out in the preamble, 50 CFR part 229 is amended as follows:

PART 229—AUTHORIZATION FOR COMMERCIAL FISHERIES UNDER THE MARINE MAMMAL PROTECTION ACT OF 1972

■ 1. The authority citation for part 229 continues to read as follows:

Authority: 16 U.S.C. 1361 *et seq.*; 50 CFR 229.32(f) also issued under 16 U.S.C. 1531 *et seq.*

■ 2. In § 229.35 paragraph (a), the definitions of *South Carolina, Georgia, and Florida waters* and *Southern North Carolina State waters* in paragraph (b), and paragraphs (d)(1)(i), (d)(2)(i), (d)(4)(ii), and (d)(5)(i) are revised to read as follows:

§ 229.35 Bottlenose Dolphin Take Reduction Plan.

(a) *Purpose and scope.* The purpose of this section is to implement the Bottlenose Dolphin Take Reduction Plan (BDTRP) to reduce incidental mortality and serious injury of stocks of bottlenose dolphins within the Western North Atlantic coastal morphotype in specific Category I and II commercial fisheries from New Jersey through Florida. Specific Category I and II commercial fisheries within the scope of the BDTRP are identified and updated in the annual List of Fisheries. Gear restricted by this section includes small, medium, and large mesh gillnets. The geographic scope of the BDTRP is all tidal and marine waters within 6.5 nautical miles (12 km) of shore from the New York-New Jersey border southward to Cape Hatteras, North Carolina, and within 14.6 nautical miles (27 km) of shore from Cape Hatteras, southward to,

and including the east coast of Florida down to the fishery management council demarcation line between the Atlantic Ocean and the Gulf of Mexico (as described in § 600.105 of this title).

(b) * * *

South Carolina, Georgia, and Florida waters means the area consisting of all marine and tidal waters, within 14.6 nautical miles (27 km) of shore, bounded on the north by a line extending in a direction of 135°34'55" from true north from the North Carolina/South Carolina border at 33°51'07.9" N. and 78°32'32.6" W., and on the south by the fishery management council demarcation line between the Atlantic Ocean and the Gulf of Mexico (as described in § 600.105 of this title).

Southern North Carolina State waters means the area consisting of all marine and tidal waters, within 3 nautical miles (5.56 km) of shore, bounded on the north by 34°35.4' N. (Cape Lookout, North Carolina), and on the south by a line extending in a direction of 135°34'55" from true north from the North Carolina/South Carolina border at 33°51'07.9" N. and 78°32'32.6" W.

* * * * *

(d) * * *

(1) * * *

(i) *Medium and large mesh gillnets.* From June 1 through October 31, in New Jersey, Delaware, and Maryland state waters, no person may fish with any medium or large mesh anchored gillnet gear at night unless such person remains within 0.5 nautical mile (0.93 km) of the closest portion of each gillnet and removes all such gear from the water and stows it on board the vessel before the vessel returns to port.

* * * * *

(2) * * *

(i) *Medium and large mesh gillnets.* From June 1 through October 31, in Southern Virginia State waters and Northern Virginia State waters, no person may fish with any medium or large mesh anchored gillnet gear at night unless such person remains within 0.5 nautical mile (0.93 km) of the closest portion of each gillnet and removes all such gear from the water and stows it on board the vessel before the vessel returns to port.

* * * * *

(4) * * *

(ii) *Medium mesh gillnets.* From November 1 through April 30 of the following year, in Northern North Carolina State waters, no person may fish with any medium mesh gillnet at night.

* * * * *

(5) * * *

(i) *Medium mesh gillnets.* From November 1 through April 30 of the following year, in Southern North Carolina State waters, no person may fish with any medium mesh gillnet at night.

* * * * *

[FR Doc. 2012-18667 Filed 7-30-12; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 100217095-2258-06]

RIN 0648-AY56

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Amendment 32 Supplement

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

ACTION: Final rule.

SUMMARY: NMFS issues this supplement to the regulations that implemented management measures described in Amendment 32 to the Fishery Management Plan (FMP) for the Reef Fish Resources of the Gulf of Mexico (Amendment 32) prepared by the Gulf of Mexico Fishery Management Council (Council). After the February 10, 2012, publication of the final rule for Amendment 32, NMFS identified inconsistencies in the regulatory text regarding the quotas and annual catch limits (ACLs) for "other shallow-water grouper" (Other SWG) that needed correction. This final rule revises the regulatory text regarding the quotas and ACLs for Other SWG. In addition, this final rule implements some minor revisions to the regulatory text to improve the clarity of the regulations.

DATES: This rule is effective August 30, 2012.

ADDRESSES: Electronic copies of Amendment 32, which includes a final environmental impact statement, a regulatory flexibility analysis, and a regulatory impact review, may be obtained from the Southeast Regional Office Web Site at <http://sero.nmfs.noaa.gov/sf/GrouperSnapperandReefFish.htm>.

FOR FURTHER INFORMATION CONTACT: Peter Hood, Southeast Regional Office, NMFS, telephone 727-824-5305; email: Peter.Hood@noaa.gov.

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

Background

On, April 6, 2012, NMFS published a proposed rule (77 FR 20775) to supplement the regulations that implemented management measures described in Amendment 32 (77 FR 6988, February 10, 2012). That proposed rule outlined the rationale for the actions contained in this final rule and is not repeated here.

Management measures implemented through this final rule reinstate the commercial Other SWG quotas and the stock complex commercial ACLs for Other SWG, as established in the final rule which implemented the ACLs and Accountability Measures Amendment for Reef Fish, Red Drum, Shrimp, and Coral Fisheries of the Gulf of Mexico (Generic ACL Amendment) (76 FR 82044, December 29, 2011), as well as remove the commercial shallow-water grouper (SWG) quotas and commercial SWG ACL erroneously included in the rule implementing Amendment 32. Specifically, this final rule implements the commercial quotas (commercial ACLs), in gutted weight, for Other SWG combined: for fishing year 2012—509,000 lb (230,879 kg), for fishing year 2013—518,000 lb (234,961 kg), for fishing year 2014—523,000 lb (237,229 kg), and finally, for fishing year 2015 and subsequent fishing years—525,000 lb (238,136 kg) as well as the stock complex ACLs for Other SWG, in gutted weight: 688,000 lb (312,072 kg) for 2012, 700,000 lb (317,515 kg) for 2013, 707,000 lb (320,690 kg) for 2014, and 710,000 lb (322,051 kg) for 2015 and subsequent years.

In addition, this final rule implements some minor non-substantive revisions to improve the clarity of the regulations. First, NMFS revises the term “other SWG” to read “Other SWG” throughout the 50 CFR part 622 regulations to improve the clarity of the regulations as they apply in the Gulf. This rule also amends the definition of SWG to include the definition for Other SWG. In the Gulf, Other SWG still includes black grouper, scamp, yellowfin grouper, and yellowmouth grouper. Second, in two instances in the regulations, sentences within a paragraph are reordered to improve clarity. Third, a sentence is deleted in the regulations because it is

already stated in the preceding paragraph and is therefore redundant.

Discussion of the management measures contained in Amendment 32 is provided in the previous proposed and final rules (see 76 FR 67656, 77 FR 6988, 77 FR 20775) as well as in Amendment 32, and is not repeated here.

Comments and Responses

No comments were received in relation to the proposed rule published on April 6, 2012 (77 FR 20775).

Changes From the Proposed Rule

NMFS has made minor, non-substantive revisions to the regulatory text contained in the proposed rule. In § 622.20, paragraphs (a)(6) and (a)(7), the term “once” is revised to read “after” to improve the clarity of the regulations. In § 622.49, paragraph (a)(4)(ii)(B), NMFS amended the term “target catch (ACT)” to read “ACT” to be consistent with the language used within Amendment 32. This clarification of the regulatory text is not substantive and will alleviate confusion for Gulf reef fish fishermen regarding the regulations.

Classification

The Regional Administrator, Southeast Region, NMFS has determined that the actions contained in this final rule are necessary for the conservation and management of the reef fish fishery in the Gulf and that they are consistent with Amendment 32, the Magnuson-Stevens Act, and other applicable law.

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

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for this determination was published in the proposed rule and is not repeated here. No comments were received regarding the certification provided in the proposed rule (77 FR 20775, April 6, 2012). No changes to the final rule were made in response to public comments. As a result, a final regulatory flexibility analysis was not required and none was prepared.

List of Subjects in 50 CFR Part 622

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

Dated: July 26, 2012.

Alan D. Risenhoover,

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

For the reasons set out in the preamble, 50 CFR part 622, is 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 for “Shallow-water grouper (SWG)” is revised to read as follows:

§ 622.2 Definitions and acronyms.

* * * * *

Shallow-water grouper (SWG) means, in the Gulf, gag, red grouper, black grouper, scamp, yellowfin grouper, and yellowmouth grouper. Other shallow-water grouper (Other SWG) means, in the Gulf, SWG excluding gag and red grouper (*i.e.*, black grouper, scamp, yellowfin grouper, and yellowmouth grouper). In addition, for the purposes of the IFQ program for Gulf groupers and tilefishes in § 622.20, speckled hind and warsaw grouper are also included as Other SWG as specified in § 622.20(a)(6).

* * * * *

■ 3. In § 622.20, paragraph (a) introductory text, the second sentence of paragraph (a)(4), paragraphs (a)(5)(i) and (a)(5)(ii), the second sentence of paragraphs (a)(6), (a)(7), (b)(3)(i), and the first sentence of paragraph (b)(6)(i) are revised to read as follows:

§ 622.20 Individual fishing quota (IFQ) program for Gulf groupers and tilefishes.

(a) *General.* This section establishes an IFQ program for the commercial sectors of the Gulf reef fish fishery for groupers (including DWG, red grouper, gag, and Other SWG) and tilefishes (including goldface tilefish, blueline tilefish, and tilefish). For the purposes of this IFQ program, DWG includes yellowedge grouper, warsaw grouper, snowy grouper, speckled hind, and scamp, but only as specified in paragraph (a)(7) of this section. For the purposes of this IFQ program, Other SWG includes black grouper, scamp, yellowfin grouper, yellowmouth grouper, warsaw grouper, and speckled hind, but only as specified in paragraph (a)(6) of this section. Under the IFQ program, the RA initially will assign

eligible participants IFQ shares, in five share categories. These IFQ shares are equivalent to a percentage of the annual commercial quotas for DWG, red grouper, gag, Other SWG, and tilefishes, based on their applicable historical landings. Shares determine the amount of IFQ allocation for Gulf groupers and tilefishes, in pounds gutted weight, a shareholder is initially authorized to possess, land, or sell in a given calendar year. Shares and annual IFQ allocation are transferable. See § 622.4(a)(2)(ix) regarding a requirement for a vessel landing groupers or tilefishes subject to this IFQ program to have an IFQ vessel account for Gulf groupers and tilefishes. See § 622.4(a)(4)(ii) regarding a requirement for a Gulf IFQ dealer endorsement. Details regarding eligibility, applicable landings history, account setup and transaction requirements, constraints on transferability, and other provisions of this IFQ system are provided in the following paragraphs of this section.

(4) * * * IFQ allocation for the five respective share categories is derived at the beginning of each year by multiplying a shareholder's IFQ share times the annual commercial quota for gag, red grouper, DWG, Other SWG and tilefishes. * * *

(5) * * *
(i) *Red grouper multi-use allocation.* (A) At the time the commercial quota for red grouper is distributed to IFQ shareholders, a percentage of each shareholder's initial red grouper allocation will be converted to red grouper multi-use allocation. Red grouper multi-use allocation, determined annually, will be based on the following formula:

Red Grouper multi-use allocation (in percent) = $100 * \frac{[\text{Gag ACL} - \text{Gag commercial quota}]}{\text{Red grouper commercial quota}}$

(B) Red grouper multi-use allocation may be used to possess, land, or sell either red grouper or gag under certain conditions. Red grouper multi-use allocation may be used to possess, land, or sell red grouper only after an IFQ account holder's (shareholder or allocation holder's) red grouper allocation has been landed and sold, or transferred; and to possess, land, or sell gag, only after both gag and gag multi-use allocation have been landed and sold, or transferred. However, if gag is under a rebuilding plan, the percentage of red grouper multi-use allocation is equal to zero.

(ii) *Gag multi-use allocation.* (A) At the time the commercial quota for gag is distributed to IFQ shareholders, a percentage of each shareholder's initial

gag allocation will be converted to gag multi-use allocation. Gag multi-use allocation, determined annually, will be based on the following formula:

Gag multi-use allocation (in percent) = $100 * \frac{[\text{Red grouper ACL} - \text{Red grouper commercial quota}]}{\text{Gag commercial quota}}$

(B) Gag multi-use allocation may be used to possess, land, or sell either gag or red grouper under certain conditions. Gag multi-use allocation may be used to possess, land, or sell gag only after an IFQ account holder's (shareholder or allocation holder's) gag allocation has been landed and sold, or transferred; and to possess, land, or sell red grouper, only after both red grouper and red grouper multi-use allocation have been landed and sold, or transferred. Multi-use allocation transfer procedures and restrictions are specified in paragraph (b)(4)(iv) of this section. However, if red grouper is under a rebuilding plan, the percentage of red grouper multi-use allocation is equal to zero.

(6) * * * For the purposes of the IFQ program for Gulf groupers and tilefishes, after all of an IFQ account holder's DWG allocation has been landed and sold, or transferred, or if an IFQ account holder has no DWG allocation, then Other SWG allocation may be used to land and sell warsaw grouper and speckled hind.

(7) * * * For the purposes of the IFQ program for Gulf groupers and tilefishes, after all of an IFQ account holder's Other SWG allocation has been landed and sold, or transferred, or if an IFQ account holder has no SWG allocation, then DWG allocation may be used to land and sell scamp.

* * *

(b) * * *

(3) * * *

(i) * * * The owner or operator of a vessel landing IFQ groupers or tilefishes is responsible for ensuring that NMFS is contacted at least 3 hours, but no more than 12 hours, in advance of landing to report the time and location of landing, estimated grouper and tilefish landings in pounds gutted weight for each share category (gag, red grouper, DWG, Other SWG, tilefishes), vessel identification number (Coast Guard registration number or state registration number), and the name and address of the IFQ dealer where the groupers or tilefishes are to be received. * * *

* * *

(6) * * *

(i) *IFQ share cap for each share category.* No person, including a corporation or other entity, may individually or collectively hold IFQ shares in any share category (gag, red grouper, DWG, Other SWG, or tilefishes) in excess of the maximum share initially

issued for the applicable share category to any person at the beginning of the IFQ program, as of the date appeals are resolved and shares are adjusted accordingly. * * *

* * *

■ 4. In § 622.42, paragraph (a)(1)(iii) introductory text and paragraph (a)(1)(iii)(A) are revised to read as follows:

§ 622.42 Quotas.

* * *

(a) * * *

(1) * * *

(iii) Shallow-water groupers (SWG) have separate quotas for gag and red grouper and a combined quota for other shallow-water grouper (Other SWG) species (including black grouper, scamp, yellowfin grouper, and yellowmouth grouper), as specified in paragraphs (a)(1)(iii)(A) through (C) of this section. These quotas are specified in gutted weight, that is, eviscerated but otherwise whole.

(A) *Other SWG combined.* (1) For fishing year 2012—509,000 lb (230,879 kg).

(2) For fishing year 2013—518,000 lb (234,961 kg).

(3) For fishing year 2014—523,000 lb (237,229 kg).

(4) For fishing year 2015 and subsequent fishing years—525,000 lb (238,136 kg).

* * *

■ 5. In § 622.49, paragraphs (a)(3) and (a)(4)(ii)(B) are revised to read as follows:

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

(a) * * *

(3) *Other shallow-water grouper (Other SWG) combined (including black grouper, scamp, yellowfin grouper, and yellowmouth grouper)*—(i) *Commercial sector.* The IFQ program for groupers and tilefishes in the Gulf of Mexico serves as the accountability measure for commercial Other SWG. The commercial ACL for Other SWG is equal to the applicable quota specified in § 622.42(a)(1)(iii)(A).

(ii) *Recreational sector.* If the sum of the commercial and recreational landings, as estimated by the SRD, exceeds the stock complex ACL specified in paragraph (a)(3)(iii) of this section, then during the following fishing year, if the sum of the commercial and recreational landings reaches or is projected to reach the applicable ACL specified in paragraph (a)(3)(iii) of this section, the AA will file a notification with the Office of the Federal Register to close the recreational

sector for the remainder of that fishing year.

(iii) The stock complex ACLs for Other SWG, in gutted weight, are 688,000 lb (312,072 kg) for 2012, 700,000 lb (317,515 kg) for 2013, 707,000 lb (320,690 kg) for 2014, and 710,000 lb (322,051 kg) for 2015 and subsequent years.

(4) * * *

(ii) * * *

(B) If gag are not overfished, and in addition to the measures specified in paragraph (a)(4)(ii)(A) of this section, if gag recreational landings, as estimated by the SRD, exceed the applicable ACLs specified in paragraph (a)(4)(ii)(D) of this section, the AA will file a notification with the Office of the Federal Register to maintain the gag ACT, specified in paragraph (a)(4)(ii)(D) of this section, for that following fishing year at the level of the prior year's ACT, unless the best scientific information available determines that maintaining the prior year's ACT is unnecessary.

* * * * *

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 120606145-2251-01]

RIN 0648-BB75

Atlantic Highly Migratory Species; North and South Atlantic Swordfish Quotas and Management Measures

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

ACTION: Final rule.

SUMMARY: This final rule implements the International Commission for the Conservation of Atlantic Tunas (Commission) Recommendation 11-02, which maintains the U.S. North Atlantic swordfish base quota allocation, reduces the annual underharvest carryover from 50 to 25 percent of the base quota, establishes an quota transfer to Morocco for 2012 and 2013, and includes an alternative swordfish minimum size of 25-inches cleithrum to caudal keel (CK). This final rule also implements Recommendation 09-03 for South Atlantic swordfish. It also allows fishermen to remove the bill of the swordfish while still meeting the "head-naturally-attached" requirement for

measuring swordfish using the lower jaw fork length minimum size, modifies and clarifies regulations regarding swordfish fishery season closures and the North Atlantic swordfish quota reserve category, and adjusts the North and South Atlantic swordfish quotas for the 2012 fishing year to account for 2011 underharvests and landings. This final rule could affect commercial and recreational fishermen who are fishing for swordfish in the Atlantic Ocean, including the Caribbean Sea and Gulf of Mexico.

DATES: Effective on August 30, 2012.

ADDRESSES: Copies of the supporting documents—including the 2012 Environmental Assessment, Regulatory Impact Review, and Final Regulatory Flexibility Analysis, the 2007 Environmental Assessment, Regulatory Impact Review, Final Regulatory Flexibility Analysis, and the 2006 Consolidated Atlantic Highly Migratory Species (HMS) Fishery Management Plan (FMP)—are available from the HMS Web site at <http://www.nmfs.noaa.gov/sfa/hms/>.

FOR FURTHER INFORMATION CONTACT:

Steve Durkee by phone: 202-670-6637, or Delisse Ortiz by phone: 301-427-8503 or by fax: 301-713-1917.

SUPPLEMENTARY INFORMATION: The U.S. North and South Atlantic swordfish fisheries are managed under the 2006 Consolidated HMS FMP, its amendments, and its implementing regulations at 50 CFR part 635, pursuant to the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), and the Atlantic Tunas Convention Act (ATCA). Under ATCA, the Secretary shall promulgate such regulations as may be necessary and appropriate to carry out Commission recommendations.

In November 2011, the Commission adopted Recommendation 11-02 for North Atlantic swordfish. This recommendation was adopted by the Commission based on the most recent North Atlantic swordfish stock assessment and maintains the U.S. baseline quota of 2,937.6 metric tons (mt) dressed weight (dw) for 2012 and 2013. Previous Commission recommendations for North Atlantic swordfish included a quota transfer of 18.8 mt dw from the United States to Canada; however, Recommendation 11-02 eliminates this quota transfer and includes a transfer of 112.8 mt dw from the United States to Morocco to support joint scientific research and Morocco's efforts to eliminate the use of driftnets. Recommendation 11-02 also includes a provision for the submission of annual

swordfish management plans and a change to the underharvest carryover provisions. The recommendation limits the amount of underharvested quota that can be carried over by CPCs, including the United States, allocated a baseline quota greater than 500 mt from 50 to 25 percent of the baseline quota. All other CPCs are limited to an underharvest carryover limit of 50 percent of their baseline quota. This recommendation also includes an option for countries to use a CK minimum size measurement of 25 inches.

The proposed rule (77 FR 25669, May 1, 2012) and draft environmental assessment contained additional details regarding the impacts of the alternatives considered and a brief summary of the recent management history. Those details are not repeated here.

In this final action, NMFS maintains the U.S. base quota of 2,937.6 mt dw for North Atlantic swordfish, implements the quota transfer of 112.8 mt dw from the United States to Morocco for 2012, and reduces the North Atlantic swordfish underharvest carryover from 50 to 25 percent of the base quota pursuant to Recommendation 11-02. For South Atlantic swordfish, this action implements Recommendation 09-03, which set the 2012 U.S. South Atlantic swordfish quota at 100 mt ww (75.2 mt dw), limits the U.S. carryforward of underharvest to 75 mt dw, and authorizes the transfer of 50 mt ww (37.6 mt dw) to Namibia, 25 mt ww (18.8 mt dw) to Côte d'Ivoire, and 25 mt ww (18.8 mt dw) to Belize. In addition, this final action implements a new alternative 25-inch CK minimum size measurement per Recommendation 11-02 and allows the existing 47-inch lower jaw fork length measurement to apply to swordfish without a bill, provided the bill has been removed forward of the anterior tip of the lower jaw and the head is naturally attached. Finally, this final rule will allow NMFS to transfer quota from the directed category to the incidental or reserve quota categories and use the quota in the reserve category to account for fishery research landings. This simplifies the North Atlantic swordfish reserve category description and explicitly states the annual reserve category allocation to be 50 mt dw. Additionally, the regulatory language is modified so that Commission-negotiated quota transfers of North Atlantic swordfish will be moved from the U.S. baseline quota rather than the reserve category.