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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

RIN 0648-AY74

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic;

Snapper-Grouper Fishery Off the Southern Atlantic States;

Amendment 20A

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

ACTION: Notice of availability; request for comments.

SUMMARY: NMFS announces that the South Atlantic Fishery Management Council (Council) has submitted Amendment 20A to the Fishery Management Plan (FMP) for the Snapper-Grouper Fishery of the South Atlantic Region (Amendment 20A) for review, approval, and implementation by NMFS. Amendment 20A proposes actions for the wreckfish individual transferable quota (ITQ) program, including actions to define and revert inactive wreckfish quota shares, redistribute reverted quota shares to remaining shareholders, establish a cap on the number of wreckfish quota shares a single entity may own, and establish an appeals process for redistribution of reverted wreckfish quota shares. The actions contained in Amendment 20A are intended to help achieve

the optimum yield (OY) from the wreckfish commercial sector in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

DATES: Written comments must be received on or before [insert date 60 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: You may submit comments on the amendment identified by "NOAA-NMFS-2011-0277" 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: Nikhil Mehta, Southeast Regional Office, NMFS,  
263 13th Avenue South, St. Petersburg, FL 33701.

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

To submit comments through the Federal e-Rulemaking Portal: <http://www.regulations.gov>, click on "submit a comment", then enter "NOAA-NMFS-2011-0277" in the keyword search and click on

"search". To view posted comments during the comment period, enter "NOAA-NMFS-2011-0277" in the keyword search and click on "search". 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.

Electronic copies of Amendment 20A may be obtained from the Southeast Regional Office Web site at

<http://sero.nmfs.noaa.gov/sf/SASnapperGrouperHomepage.htm>.

FOR FURTHER INFORMATION CONTACT: Nikhil Mehta, telephone: 727-824-5305, or e-mail: [nikhil.mehta@noaa.gov](mailto:nikhil.mehta@noaa.gov).

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Act requires each regional fishery management council to submit any FMP or amendment to NMFS for review and approval, partial approval, or disapproval. The Magnuson-Stevens Act also requires that NMFS, upon receiving a plan or amendment, publish an announcement in the Federal Register notifying the public that the FMP or amendment is available for review and comment.

The FMP being revised by Amendment 20A was prepared by the Council and implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Act.

## Background

Wreckfish is part of the snapper-grouper fishery and is managed under the FMP for the Snapper-Grouper Fishery of the South Atlantic Region (Snapper-Grouper FMP). The wreckfish commercial sector has been managed under an ITQ program since March 1992, through Amendment 5 to the Snapper-Grouper FMP, in order to end derby fishing (race to fish) practices. Currently, there is latent effort in the wreckfish commercial sector with very few active participants. In August 2010, the Council's Scientific and Statistical Committee (SSC) recommended an acceptable biological catch (ABC) for wreckfish off the southern Atlantic states of 250,000 lb (113,389 kg), round weight. The proposed rule for the Comprehensive Annual Catch Limit Amendment (Comprehensive ACL Amendment) published on December 1, 2011 (76 FR 74757), and would implement an ACL of 250,000 lb (113,389 kg), round weight for wreckfish. The Comprehensive ACL Amendment would further allocate 95 percent of the wreckfish ACL to the commercial sector (237,500 lb; 107,728 kg, round weight). In November 2011, the Council's SSC met and recommended a revised wreckfish ABC equal to 235,000 lb (106,594 kg), round weight. The Council then met in December 2011 and reviewed and accepted the SSC's recommendation to reduce the wreckfish ABC which would in turn reduce the wreckfish ACL. Therefore, to

incorporate this recommended revised ACL, NMFS published an amended proposed rule for the Comprehensive ACL Amendment on December 30, 2011 (76 FR 82264) to implement the revised wreckfish ABC and ACL of 235,000 lb (106,594 kg), round weight, of which 223,250 lb (101,264 kg) would be allocated to the commercial sector. This would be an 89 percent reduction from the current total allowable catch for wreckfish of 2 million lb (907,185 kg), round weight. The intent of Amendment 20A is to achieve OY in the wreckfish commercial sector while maximizing harvest potential and not exceeding the ACL.

#### Define and Revert Inactive Wreckfish Quota Shares

The ACL for the wreckfish commercial sector proposed in the Comprehensive ACL Amendment and in the amended proposed rule, would result in a significant reduction in the amount of available harvest associated with each wreckfish quota share, including inactive wreckfish quota shares, in order to maintain harvest at or below the ACL. As a result, if inactive wreckfish quota shares are not reverted it is likely that harvest would only reach approximately 130,735 - 160,338 lb (59,300 - 72,728 kg), round weight, after applying the new ACL. Out of the 20 current wreckfish quota shareholders, there are 13 inactive wreckfish quota shareholders holding a combined 28.18 percent of wreckfish quota shares. Amendment 20A proposes to revert these

wreckfish quota shares and redistribute them among the seven remaining active wreckfish quota shareholders.

#### Redistribute Reverted Wreckfish Quota Shares to Remaining Shareholders

Amendment 20A proposes to redistribute the above mentioned wreckfish quota shares to remaining wreckfish quota shareholders based on landings history from fishing years 2006/2007 through 2010/2011. The percentage of wreckfish quota shares redistributed to the remaining wreckfish quota shareholders would range from 0.04 percent to 9.91 percent.

#### Establish a Cap on the Number of Wreckfish Quota Shares a Single Entity May Own

Amendment 20A proposes to establish a cap of 49 percent of the total wreckfish quota shares a single entity can own. This would prevent any one entity from holding the majority of wreckfish quota shares, and would result in no active entities exceeding the quota share cap.

#### Establish an Appeals Process for Redistribution of Wreckfish Quota Shares

Five percent of the wreckfish quota shares for the 2012/2013 fishing year would be set-aside by Amendment 20A, to resolve any appeals of wreckfish quota shares for a period of 90-days starting on the effective date of the final rule. The

Regional Administrator (RA) would review, evaluate, and provide final decisions on appeals. Hardship arguments would not be considered. The RA would determine the outcome of appeals based on NMFS' logbooks. If NMFS' logbooks are not available, the RA could use state landings records. Appellants would submit NMFS' logbooks or state landings records to support their appeal. After the appeals process has been completed, any amount of quota shares remaining from the set-aside would be redistributed to remaining ITQ shareholders, according to the redistribution method specified above.

A proposed rule that would implement measures outlined in Amendment 20A has been drafted. In accordance with the Magnuson-Stevens Act, NMFS is evaluating the proposed rule to determine whether it is consistent with the FMPs, the Magnuson-Stevens Act, and other applicable law. If that determination is affirmative, NMFS will publish the proposed rule in the Federal Register for public review and comment.

Comments received by [insert date 60 days after date of publication in the FEDERAL REGISTER], will be considered by NMFS in its decision to approve, disapprove, or partially approve Amendment 20A. Comments received after that date will not be

considered by NMFS in this decision. All comments received by NMFS on Amendment 20A or the proposed rule for Amendment 20A during their respective comment periods will be addressed.

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

Dated: January 6, 2012

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Steven Thur,  
Acting Director,  
Office of Sustainable Fisheries,  
National Marine Fisheries Service.

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