

This action is authorized by 50 CFR 300.97, and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 3636(b).

Dated: October 29, 2014.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 130403320-4891-02]

RIN 0648-BD07

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery Off the Southern Atlantic States; Regulatory Amendment 14

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

ACTION: Final rule.

SUMMARY: NMFS issues regulations to implement Regulatory Amendment 14 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP) (Regulatory Amendment 14), as prepared and submitted by the South Atlantic Fishery Management Council (Council). This rule changes the fishing years for greater amberjack and black sea bass, revises the commercial trip limits for gag grouper (gag) and black sea bass, and revises the recreational accountability measures (AMs) for black sea bass and vermilion snapper. The purpose of Regulatory Amendment 14 and this rule is to help achieve optimum yield (OY) and enhance socio-economic opportunities within the snapper-grouper fishery in accordance with the requirements of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

DATES: This rule is effective December 8, 2014.

ADDRESSES: Electronic copies of the regulatory amendment, which includes an environmental assessment and an initial regulatory flexibility analysis (IRFA), may be obtained from the Southeast Regional Office Web site at http://sero.nmfs.noaa.gov/sustainable_fisheries/s_atl/sg/2014/reg_am14/index.html.

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SUPPLEMENTARY INFORMATION: The snapper-grouper fishery of the South Atlantic is managed under the FMP. The FMP was prepared by the Council and is implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Act.

On April 25, 2014, NMFS published a proposed rule for Regulatory Amendment 14 and requested public comment (79 FR 22936). The proposed rule and Regulatory Amendment 14 outline the rationale for the actions contained in this final rule. A summary of the actions implemented by Regulatory Amendment 14 and this final rule is provided below.

Management Measures Contained in This Final Rule

This final rule changes the fishing years for greater amberjack and black sea bass, revises the commercial trip limits for gag and black sea bass, and revises the recreational AMs for black sea bass and vermilion snapper. All weights described in this final rule are given in gutted weight.

Greater Amberjack Fishing Year

This final rule changes the greater amberjack fishing year of May 1 through April 30 to a fishing year of March 1 through the end of February. This fishing year change allows the commercial sector access to greater amberjack during the Lenten season, when there is an increase in demand for the species, and thus enhances the economic yield from greater amberjack harvest.

Black Sea Bass Fishing Year

This final rule changes the commercial and recreational fishing years for black sea bass from June 1 through May 31, to January 1 through December 31 for the commercial sector and April 1 through March 31 for the recreational sector. Starting the commercial fishing year on January 1 during the black sea bass pot gear closure could provide, to the extent practicable, positive socio-economic benefits to the commercial black sea bass fishers who use hook-and-line gear because they would be able to fish for black sea bass when the catch per unit effort is higher, the fish are closer to shore, and there is generally a higher price per pound for black sea bass. The action also aligns the beginning of the commercial harvest seasons for black sea bass and vermilion snapper, which are commonly caught together with hook-and-line gear, and is expected to

decrease the amount of regulatory discards in the snapper-grouper fishery. In addition, changing the commercial fishing year to January 1 for the black sea bass commercial sector allows commercial fishers to harvest black sea bass with hook-and-line gear during January to April when many other snapper-grouper species such as shallow-water groupers are closed to harvest.

Changing the black sea bass recreational fishing year start date from June 1 to April 1 is expected to allow recreational fishermen throughout the Council's area of jurisdiction to have more opportunity to harvest black sea bass and vermilion snapper when harvest for both species is open, thus reducing regulatory discards of black sea bass during April and May.

Black Sea Bass Commercial Trip Limit

Currently, the trip limit for the black sea bass commercial sector for hook-and-line gear and black sea bass pots is 1,000 lb (454 kg). This final rule establishes a trip limit of 300 lb (136 kg), for the hook-and-line component of the commercial sector from January 1 through April 30 when fishing with black sea bass pots is prohibited. The hook-and-line trip limit for the remainder of the fishing year remains at 1,000 lb (454 kg). The trip limit for fishers using black sea bass pots would continue to be 1,000 lb (454 kg). A 300 lb (136 kg), black sea bass trip limit for the hook-and-line sector during the period January 1 to April 30 allows fishermen to retain marketable quantities of black sea bass when targeting vermilion snapper, thereby addressing bycatch and discard mortality issues. The 300-lb (136-kg) trip limit for black sea bass could help to extend the length of the commercial vermilion snapper fishing season, because fishers have the opportunity to harvest both black sea bass and vermilion snapper instead of just targeting vermilion snapper. The Council determined that a January 1 fishing year start date for the black sea bass commercial sector, in conjunction with a trip limit of 300 lb (136 kg) for the hook-and-line component, would allow commercial harvest of black sea bass and vermilion snapper to occur at the same time and enhance the socio-economic benefits to those utilizing the black sea bass resource.

Gag Commercial Trip Limit

This final rule revises the gag commercial trip limit from the current 1,000 lb (454 kg), to include a trip limit reduction to 500 lb (227 kg), when 75 percent of the gag commercial quota is

reached. The Council determined that this trip limit alternative best addresses the need to minimize regulatory discards of gag, extend the gag commercial fishing season, and reduce adverse socio-economic impacts to fishermen and fishing communities that utilize the gag resource, while still allowing commercial harvest to continue.

Black Sea Bass Recreational AMs

As described in Regulatory Amendment 14, this final rule revises the black sea bass recreational AMs to prevent the recreational ACL from being exceeded. The revised recreational AM is to specify the length of the recreational fishing season for black sea bass, as determined by NMFS and announced annually in the **Federal Register**, prior to the April 1 recreational fishing season start date. The fishing season starts on April 1 and ends on the date NMFS projects the recreational sector's ACL will be reached for that year. The purpose of this revised AM is to implement a more predictable recreational season length while still constraining harvest at or below the ACL to protect the stock from experiencing adverse biological consequences.

Vermilion Snapper Recreational AMs

This rule revises the recreational AM for vermilion snapper by implementing an in-season closure and modifying the ACL overage adjustment (payback) in the event an overage of the recreational ACL occurs and vermilion snapper are overfished. If recreational landings reach or are projected to reach the recreational ACL, recreational harvest is prohibited for the remainder of the fishing year. Payback of a recreational ACL overage in the following fishing year occurs if vermilion snapper are determined to be overfished and the total ACL (combined commercial and recreational ACLs) is exceeded. Unlike black sea bass, the Council determined that these revised recreational AMs for vermilion snapper that include in-season closure authority best meet the objectives of the FMP while ensuring that overfishing of vermilion snapper does not occur.

Additional Management Measure Contained in This Final Rule

Regulatory Amendment 15 to the FMP revised the AMs for gag by removing the requirement that all other South Atlantic shallow-water grouper (SASWG) are prohibited from harvest when the gag commercial ACL is met or projected to be met (78 FR 49183, August 13, 2013). However, the final

rule implementing Regulatory Amendment 15 inadvertently failed to remove regulatory language within the quota closure section for gag that also referred to the associated SASWG closure. Therefore, this final rule removes the outdated language that is no longer applicable to the gag commercial ACL closure.

Comments and Responses

A total of 13 comments were received on Regulatory Amendment 14 and the proposed rule from individuals, a commercial fishing association, and a Federal agency. The Federal agency stated it had no comments on the proposed rule or Regulatory Amendment 14. Three comment submissions were unrelated to the actions contained in Regulatory Amendment 14 and one comment was in opposition to all fishing regulations in general. The commercial fishing association expressed support for the actions in Regulatory Amendment 14 except for the gag commercial trip limit reduction. One comment submission questioned how the recreational ACL is documented for black sea bass and vermilion snapper. Seven individuals submitted comments on various alternatives contained in Regulatory Amendment 14 and the proposed rule. Of these seven individuals, four submissions were in favor of the gag commercial trip limit reduction; one submission was in opposition to changing the commercial fishing year for greater amberjack; one submission was in opposition to changing the black sea bass commercial trip limit; and one submission was in opposition to changing the black sea bass commercial regulations. The comments that oppose one or more of the management measures contained in Regulatory Amendment 14 and the proposed rule are summarized and responded to below.

Comment 1: One commenter suggested that NMFS should reduce the gag commercial trip limit to 300 lb (136 kg), when 75 percent of the gag commercial quota is reached, instead of to 500 lb (227 kg). Another commenter suggested that the gag trip limit should be 500 lb (227 kg) instead of 1,000 lb (454 kg), and then reduced to 100 lb (45 kg) when 75 percent of the commercial quota is reached.

Response: NMFS disagrees that the 1,000 lb (454 kg) gag commercial trip limit should be reduced to 300 lb (136 kg) when 75 percent of the gag commercial quota is reached. NMFS also disagrees that the gag trip limit should be 500 lb (227 kg) instead of 1,000 lb (454 kg), and then reduced to

100 lb (45 kg) when 75% of the gag commercial quota is reached. Regulatory Amendment 14 analyzed alternatives with different step-down reductions to the gag 1,000 lb (454 kg) commercial trip limit, including a reduction to 300 lb (136 kg). At their September 2013 meeting, the Council discussed that the original purpose of this action, as proposed by the Council's Snapper-Grouper Advisory Panel, was to reduce discards of gag when fishermen target shallow-water groupers or other species which co-occur with gag. An additional objective was to extend the length of the gag commercial fishing season. An alternative to specify a gag trip limit of 500 lb (227 kg) that is reduced to 100 lb (45 kg) when 75 percent of the gag commercial quota is reached was not considered in Regulatory Amendment 14. However, some Council members stated that higher trip limits were needed for larger vessels, which require higher costs to operate and to fish than smaller vessels require. Because the other trip limit step-down alternatives considered are less than the preferred alternative of 500 lb (227 kg) gutted weight, these alternatives would be expected to increase the cost per landed fish, and might lower vessel profit per trip. Analyses in Regulatory Amendment 14 showed little difference in the expected length of the commercial season under the various trip limit alternatives; thus, the Council determined that reducing the gag commercial trip limit to 500 lb (227 kg) gutted weight when 75 percent of the gag commercial quota is reached, best balanced the need to minimize regulatory discards of gag and reduce adverse socio-economic impacts to fishermen and fishing communities that utilize the gag resource, while still allowing commercial harvest to continue. In general, the Council considers this step-down approach in the commercial trip limit as a temporary measure while they explore better ways to address discards, enhance vessel profitability, and achieve a longer gag fishing season.

Comment 2: NMFS should not allow commercial fishing for greater amberjack during the months of April, May, and June. Greater amberjack aggregate to spawn during these months, and a commercial closure during this period would protect the spawning stock.

Response: NMFS agrees that closing the commercial sector harvest for greater amberjack during the spawning season months of April, May, and June would provide greater protection for the greater amberjack resource. However, such a seasonal closure is not necessary for the

stock at this time because the stock is healthy and commercial spawning season harvest limitations for greater amberjack for the month of April have been in effect since 1999 (64 FR 3624, January 25, 1999). Greater amberjack are neither overfished nor undergoing overfishing and ACLs and AMs are in place to ensure that overfishing does not occur. Commercial harvest of greater amberjack did not exceed the commercial ACL during fishing years 2007/2008 through 2012/2013; however, members of the public expressed concern that commercial harvest of greater amberjack could increase in the future due to harvest restrictions on other snapper-grouper species. Revising the current greater amberjack commercial fishing year of May 1 through April 30, to a fishing year of March 1 through the end of February, could have positive biological effects to the greater amberjack resource because, if harvest were to increase, it is more likely that the commercial ACL could be reached before the beginning of the spawning season (January through June) and thus provide more protection to the species. Furthermore, changing the greater amberjack commercial fishing year could provide socio-economic benefits to fishers because even if commercial harvest were to increase in the future, beginning the fishing year in March would ensure that greater amberjack are available during the Lenten season (which usually begins in March) when there is the greatest demand for the species. Therefore, changing the fishing year balances the biological protection for the resource and the socio-economic benefits for snapper-grouper fishermen.

Comment 3: One commenter stated that none of the black sea bass commercial regulations should be changed. Another commenter indicated that the commercial trip limit for the black sea bass hook-and-line component should be 800 to 1,000 lb (362 to 453 kg), for the winter and spring months, instead of 300 lb (136 kg) for the winter and spring months of January through April. It is not cost-effective to leave the dock for only 300 lb (136 kg) of black sea bass.

Response: NMFS disagrees that there should be no change in the commercial regulations for black sea bass and disagrees that the commercial trip limit for the black sea bass hook-and-line component should be 800 to 1,000 lb (362 to 453 kg) for the months January through April.

Regulatory Amendment 14 considers a change in the commercial black sea bass fishing year and revisions to the commercial trip limit for the black sea

bass hook-and-line component. The Council concluded that a change in the commercial fishing year to begin on January 1 during the black sea bass pot gear closure could provide benefits to the commercial black sea bass fishers who use hook-and-line gear because they would be able to fish for black sea bass when the catch per unit effort is higher, the fish are closer to shore, and there is generally a higher price per pound for black sea bass. In the past several years, the commercial quota has been met for black sea bass before the end of the June through May fishing year. A January 1 start date for the black sea bass commercial fishing season is expected to increase harvest opportunities for black sea bass and co-occurring species with hook-and-line gear from January to April when many other snapper-grouper species such as shallow-water groupers are closed to harvest.

A 300-lb (136-kg) commercial trip limit for the hook-and-line component during the period from January 1 to April 30 would allow fishermen to retain marketable quantities of black sea bass when targeting co-occurring species such as vermilion snapper (which are caught together with black sea bass when using hook-and-line gear) while addressing bycatch and discard mortality issues. The 300-lb (136-kg) commercial trip limit would also help to extend the length of the commercial vermilion snapper fishing season, because fishers would then have the opportunity to catch both black sea bass and vermilion snapper instead of just targeting vermilion snapper. The Council determined that a January 1 fishing year start date for the black sea bass commercial sector, in conjunction with a trip limit of 300 lb (136 kg) for the hook-and-line component, would allow commercial harvest of black sea bass and vermilion snapper to occur at the same time and enhance the socio-economic benefits to those utilizing the black sea bass resource. Additionally, 300 lb (136 kg) is considered an adequate trip limit based on public input and Council members' own experiences of fishing for black sea bass with hook-and-line gear.

Comment 4: For the revised AMs for black sea bass and vermilion snapper, how is the recreational ACL documented, and how does NMFS know when the recreational ACL has been reached?

Response: Recreational landings are collected through the Marine Recreational Information Program (MRIP), and the Southeast Region Headboat Survey. MRIP covers both coastal Atlantic states from Maine to

Florida and Gulf of Mexico coastal states from Florida to Louisiana. MRIP provides estimated landings and discards for six 2-month periods (waves) each year. The survey provides estimates for three recreational fishing modes: Shore based fishing, private and rental boat fishing, and for-hire charter and guide fishing. Catch data are collected through dockside angler intercept surveys of completed, recreational fishing trips and effort data are collected using telephone surveys. The Southeast Region Headboat Survey estimates landings and discards for headboats in the U.S. South Atlantic and Gulf of Mexico from required logbooks. Landings data from MRIP and the Headboat Survey are compared to the recreational ACL. If the ACL has been met or exceeded, an AM is triggered, such as an in-season closure. If landings for either MRIP or the Headboat Survey are incomplete, projections of landings based on information from previous years are used to predict when the ACL is expected to be met.

Also, this final rule revises the AM for the black sea bass recreational sector so that the fishing season will be announced prior to the April 1 start date and the length of the season will be set to prevent the recreational ACL from being exceeded. As discussed, this final rule also revises the AMs for the vermilion snapper recreational sector. However, for vermilion snapper, when the recreational ACL is reached, or projected to be reached, the sector will close for the remainder of the fishing year (in-season closure). Additionally, if vermilion snapper commercial and recreational landings exceed both sector's combined ACL, and vermilion snapper are overfished, then during the following year, the recreational ACL will be reduced by the amount of the recreational overage in the prior year (payback).

Classification

The Regional Administrator, Southeast Region, NMFS has determined that this final rule is necessary for the conservation and management of South Atlantic snapper-grouper and is consistent with Regulatory Amendment 14, the FMP, the Magnuson-Stevens Act, and other applicable law.

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

A final regulatory flexibility analysis (FRFA) was prepared for this action. The FRFA incorporates the initial regulatory flexibility analysis (IRFA), a summary of the significant economic

issues raised by public comment, NMFS' responses to those comments, and a summary of the analyses completed to support the action. The FRFA follows.

No public comments specific to the IRFA were received and, therefore, no public comments are addressed in this FRFA. Some comments with indirect socio-economic implications were received and these are addressed in the comments and responses section above. No changes in the final rule were made in response to public comments.

This final rule will modify the commercial and recreational fishing years for greater amberjack from the current fishing year of May 1 through April 30 to a fishing year that begins on March 1 and goes through the last day of February; modify the recreational fishing year for black sea bass from June 1 through May 31 to a fishing year of April 1 through March 31; require as a recreational AM for black sea bass for NMFS to annually announce the recreational fishing season end date based on NMFS projections of when the recreational ACL will be caught; change the commercial fishing year for black sea bass to January 1 through December 31; revise the black sea bass commercial trip limit, for the hook-and-line component, to be 300 lb (136 kg) from January through March (when sea bass pots are prohibited); reduce the commercial trip limit for gag from 1,000 lb (454 kg) to 500 lb (227 kg), when 75 percent of the commercial ACL is projected to be met; modify the recreational AMs for vermilion snapper such that exceeding the recreational ACL will result in an in-season closure; require paybacks for the vermilion snapper recreational sector only if the vermilion snapper stock is overfished and if the total ACL (vermilion snapper commercial and recreational ACLs combined) are exceeded.

NMFS agrees that the Council's choice of preferred alternatives will best achieve the Council's objectives for Regulatory Amendment 14 while minimizing, to the extent practicable, the adverse effects on fishers, support industries, and associated communities. The preamble of the proposed rule and this final rule provide a statement of the need for and objectives of this final rule, and it is not repeated here.

The Magnuson-Stevens Act provides the statutory basis for this rule. No duplicative, overlapping, or conflicting Federal rules have been identified. In addition, no new reporting, record-keeping, or other compliance requirements are introduced by this final rule. Accordingly, this final rule

does not implicate the Paperwork Reduction Act.

NMFS expects this final rule to directly affect commercial fishermen and for-hire vessel operators in the South Atlantic snapper-grouper fishery. The Small Business Administration (SBA) recently modified the small entity size criteria for all major industry sectors in the U.S., including fish harvesters. A business involved in finfish 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 its combined annual receipts are not in excess of \$20.5 million (NAICS code 114111, finfish fishing) for all of its affiliated operations worldwide. For for-hire vessels, all qualifiers apply except that the annual receipts threshold is \$7.5 million (NAICS code 487210, recreational industries). The SBA periodically reviews and changes, as appropriate, these size criteria. On June 12, 2014, the SBA issued a final rule revising the small business size standards for several industries, effective July 14, 2014 (79 FR 33647). That rule increased the size standard for commercial finfish harvesters from \$19.0 million to \$20.5 million and the size standard for for-hire vessels from \$7.0 million to \$7.5 million.

From 2008 through 2012, an annual average of 223 vessels with valid Federal permits to operate in the commercial sector of the snapper-grouper fishery landed at least 1 lb (0.5 kg) of black sea bass. These vessels generated annual average dockside revenues of approximately \$3.6 million (2011 dollars) from all species caught on the same trips as black sea bass, of which \$918,000 (2011 dollars) were from black sea bass. Each vessel, therefore, generated an annual average of approximately \$16,000 in gross revenues, of which \$4,000 annually were from black sea bass. For the same period, an annual average of 252 vessels with valid Federal permits to operate in the commercial sector of the snapper-grouper fishery landed at least 1 lb (0.5 kg) of gag. These vessels generated dockside revenues of approximately \$5.7 million (2011 dollars) from all species caught on the same trips as gag, of which \$1.7 million (2011 dollars) were from gag. Each vessel, therefore, generated an annual average of approximately \$23,000 in gross revenues, of which \$7,000 were from gag.

Additionally, an annual average of 304 vessels with valid Federal permits to operate in the commercial sector of the snapper-grouper fishery landed at

least 1 lb (0.5 kg) of greater amberjack. These vessels generated dockside revenues of approximately \$5.7 million (2011 dollars) from all species caught on the same trips as greater amberjack, of which \$905,000 (2011 dollars) were from greater amberjack. Each vessel, therefore, generated an annual average of approximately \$23,000 in gross revenues, of which \$3,000 were from greater amberjack. Also, an annual average of 229 vessels with valid Federal permits to operate in the commercial sector of the snapper-grouper fishery landed at least 1 lb (0.5 kg) of vermilion snapper. These vessels generated dockside revenues of approximately \$6.2 million (2011 dollars) from all species caught on the same trips as vermilion snapper, of which \$2.9 million (2011 dollars) were from vermilion snapper. Each vessel, therefore, generated an annual average of approximately \$27,000 in gross revenues, of which \$13,000 were from vermilion snapper. Some vessels may have caught and landed any combination of these four species (black sea bass, gag, greater amberjack, and vermilion snapper) and revenues therefrom are included in the foregoing estimates. Vessels that caught and landed any of these four species may also operate in other fisheries, the revenues of which are not known and are not reflected in these totals. Based on revenue information, all commercial vessels affected by this final rule can be considered small entities.

From 2008 through 2012, an annual average of 1,809 vessels had valid or renewable Federal permits to operate in the for-hire component of the recreational sector of the South Atlantic snapper-grouper fishery. As of July 24, 2013, 1,523 vessels held South Atlantic charter/headboat snapper-grouper permits and about 75 of those vessels are estimated to have operated as headboats in 2013. The for-hire fleet consists of charter boats, which charge a fee on a vessel basis, and headboats, which charge a fee on an individual angler (head) basis. Average annual revenues (2011 dollars) for charter boats are estimated to be \$126,032 for Florida vessels, \$53,443 for Georgia vessels, \$100,823 for South Carolina vessels, and \$101,959 for North Carolina vessels. For headboats, the corresponding estimates are \$209,507 for Florida vessels and \$153,848 for vessels in the other states. Revenue figures for states other than Florida are aggregated to avoid disclosure of confidential information. Based on these average revenue figures, all for-hire operations that would be

affected by this final rule can be considered small entities.

Because all entities expected to be affected by this rule are small entities, NMFS has determined that this final rule will affect a substantial number of small entities. Moreover, the issue of disproportionate effects on small versus large entities does not arise in the present case.

Relative to the no action alternative, the modification to the greater amberjack commercial season is not expected to alter the length of the commercial season. NMFS projections show that if closures were to occur, they would be of about the same length for both the no action alternative and the preferred alternative. For this reason, it is unlikely that total ex-vessel revenues for the commercial sector will change. However, there is a possibility that the distribution of those revenues will change in favor of those with first access to the fishery resource, particularly if fishing closures were to occur. NMFS projections for the recreational sector show that the recreational ACL will be met at a later date under the no action alternative than under the preferred alternative. Thus, greater recreational ACL overages may be expected from the preferred alternative as there is no in-season AM for the greater amberjack recreational sector. This will result in higher profits to for-hire vessels in a current fishing year. However, the post-season AM requires that the following year's fishing season would be shortened if the recreational ACL was exceeded during the previous fishing year, resulting in revenue and profit reductions to for-hire vessels. Based on average angler trips for 2008–2012, the for-hire fleet will lose about \$161,000 (2011 dollars) in annual profits, of which \$160,000 (2011 dollars) will be for headboats and \$1,000 (2011 dollars) for charter boats as a result of a shortened season. It cannot be ascertained if a fishing year's increased profits that will be partly due to quota overages will more than compensate for the following year's profit reductions due to fewer trips taken because of a shortened fishing season.

The economic effects of the modification to the recreational fishing year for black sea bass are uncertain. Projection models used to predict the length of the season provide relatively wide variations. Consequently, the expected effects on for-hire vessel profits will also vary widely. Based on 2008–2012 trip data, the change in the recreational black sea bass fishing year is expected to change for-hire profits anywhere from negative \$636,000 to positive \$167,000 (2011 dollars),

depending on the model used to project the season length.

Setting the end date for the black sea bass recreational fishing season at the beginning of each fishing year will in effect set a fixed recreational fishing season for that year. Relative to the no action alternative, this alternative is likely to provide an improved economic environment for increased short-term profits for for-hire vessels, because for-hire vessel owners and operators will have more flexibility in developing better plans (e.g., booking schedules) to take advantage of improved fishing opportunities. One downside of this action is that it tends to increase the likelihood of ACL overages because no fishing closure will be implemented during the fixed season. It cannot be determined at this time if a year's increased profits partly due to quota overages will more than compensate for the following year's profit reductions due to fewer trips taken because of a shortened fishing season.

Changing the commercial fishing year for black sea bass to start on January 1 effectively means that the hook-and-line component of the commercial sector will have first access to the black sea bass resource, because sea bass pots are prohibited from November 1 through April 30. In addition, the trip limit for the hook-and-line component of the commercial sector from January 1 through April 30 will be 300 lb (136 kg); in other months when commercial harvest of black sea bass is allowed, the trip limit for both the sea bass pot and hook-and-line components is maintained at 1,000 lb (454 kg). While the change in the commercial fishing year will benefit the hook-and-line component in that they could start fishing at the beginning of the fishing year, the lower trip limit during the period of January through April will increase the cost per fish harvested for that gear type. It cannot be determined at this time whether this condition will increase the profits of black sea bass hook-and-line vessels. Projections on the length of the commercial black sea bass fishing season show that, in general, fishery closures under the new fishing year will happen earlier in the year than under the no action alternative. There is then a possibility that vessel revenues will be lower under the new fishing year, and it is likely that the sea bass pot component of the commercial sector will bear a greater portion of the revenue loss because of a shorter fishing season than the hook-and-line component. The magnitude of such a loss cannot be estimated beyond stating that the revenues under this

action will be lower relative to that of the no action alternative.

Reducing the commercial trip limit for gag from 1,000 lb (454 kg) to 500 lb (227 kg), when 75 percent of the commercial ACL is projected to be met will extend the length of the commercial fishing season by about 1 week. It is not known if this lengthened season will be sufficient for the gag ex-vessel price to increase. In the absence of an increased ex-vessel price, commercial revenues are unlikely to increase. Under this condition, there arises the possibility that profits per trip will decrease because the fishing cost per fish landed for those already catching above 500 lb (227 kg) will be higher. However, maintaining the trip limit at 1,000 lb (454 kg) could eventually lead to a progressive shortening of the commercial season in future years as fishermen race to harvest fish before the season closes. The reduced trip limit will likely favor those catching 300 lb (136 kg), or less, on commercial trips as they will be able to continue their usual fishing activities at relatively the same cost and profit per trip during the extended fishing season.

Modifying the recreational AM for vermilion snapper will require recreational ACL paybacks only if, in addition to the stock being overfished as in the no action alternative, the total vermilion snapper commercial and recreational ACLs are exceeded. NMFS notes that the revised AM will also provide for in-season closures as occurs in the no action alternative. Because vermilion snapper is currently neither overfished nor undergoing overfishing, the revision to the recreational AM will have no short-term economic effects.

The following discussion analyzes the alternatives that were not selected as preferred by the Council, or alternatives for which the Council chose the no action alternative.

Three alternatives, including the preferred alternative, were considered for modifying the commercial and recreational fishing years for greater amberjack. The first alternative, the no action alternative, would maintain the May 1 through April 30 commercial and recreational fishing year. The second alternative would establish a January 1 through December 31 commercial and recreational fishing year for greater amberjack. The second alternative (January 1–December 31) would allow fishermen in south Florida to harvest greater amberjack in March through May before the fish migrate north in late spring. In effect, the first alternative (May 1–April 30) would allow south Florida fishermen to have access to the fish in only 2 months each year;

whereas, fishermen in north Florida through North Carolina would have access to the fish for a much longer annual period. Thus, the Council rejected these two alternatives because the preferred alternative will allow fishermen across the South Atlantic states more equitable access to the fishery resource.

Five alternatives, including the preferred alternative, were considered for modifying the recreational fishing year for black sea bass. The first alternative, the no action alternative, would maintain the June 1 through May 31 recreational fishing year. The second alternative would establish a January 1 through December 31 fishing year; the third alternative, an October 1 through September 30 fishing year; and, the fourth alternative, a May 1 through April 30 fishing year. NMFS employed several models to project the season length for the various alternatives. Projected recreational season lengths vary widely within and across the alternative fishing years and projection models. An attempt was made to estimate for-hire profits based on projected season lengths for the various fishing year alternatives. For some models, the preferred alternative would result in higher for-hire vessel profits than any other alternatives, but for other projection models, some alternatives (e.g., no action alternative) would result in higher for-hire profits than the preferred alternative. In essence, profit estimates were quite uncertain. The Council rejected all of the other fishing year alternatives because they considered them inferior to the preferred alternative in reducing regulatory discards of black sea bass. The preferred recreational fishing year of April through March will reduce the amount of regulatory discards by coinciding with the open seasons for species that are commonly caught together, such as black sea bass and vermilion snapper.

Four alternatives, including the preferred alternative, were considered for modifying the recreational AM for black sea bass. The first alternative, the no action alternative, would prohibit the harvest and retention of black sea bass if the recreational ACL is met or is projected to be met independent of the stock status, and would reduce the recreational ACL in the following fishing year by the amount of the recreational ACL overage in the prior year. The second alternative would require NMFS to annually announce the recreational fishing season end date, with the season starting on April 1 and the end date being determined by NMFS' projection of when the

recreational annual catch target (ACT) would be met. The third alternative is the same as the first alternative but without the payback provision in the event of a recreational ACL overage. Comparative economic analysis of the various alternatives cannot be adequately conducted because of the interplay of such factors as an in-season AM that affects overages, paybacks in case of overages, and a better business planning environment (e.g., booking trips that would not be cancelled due to a quota closure) in a given year. The first alternative would provide a business planning environment that would not be as conducive to generating higher for-hire vessel profits as the preferred alternative, but would appear to have a better chance of limiting recreational ACL overages and thus avoid a shortening of the following year's fishing season that would have adverse effects on for-hire vessel profits. The second alternative would likely result in lower for-hire profits than the preferred alternative, because using the recreational ACT for determining the end date of the black sea bass recreational fishing season would result in a shorter fishing season in any given year. The third alternative would likely result in lower for-hire vessel profits than the preferred alternative in a given year, but in the event of overages, it would likely provide higher for-hire vessel profits in the following year because it would not require any payback for recreational ACL overages. The Council selected its preferred alternative because it will tend to provide more stability to the recreational sector and/or higher for-hire vessel profits than the other alternatives.

Four alternatives, including the preferred alternative, were considered for modifying the commercial fishing year for black sea bass. The first alternative, the no action alternative, would maintain the June 1 through May 31 fishing year, with sea bass pots prohibited from November 1 through April 30, and a 1,000 lb (454 kg) trip limit for both the sea bass pot and hook-and-line components. The second alternative would differ from the no action alternative by establishing a July 1 through June 30 commercial fishing year. The third alternative would differ from the no action alternative by setting a May 1 through April 30 fishing year. In addition, three sub-alternatives, including the preferred sub-alternative, were considered for a commercial trip limit for the hook-and-line component from January 1 through April 30 coinciding with the time that sea bass

pots are prohibited from harvesting black sea bass. The first sub-alternative would impose a 100 lb (45 kg) hook-and-line trip limit and the second sub-alternative, a 200 lb (90 kg) hook-and-line trip limit. These two sub-alternatives would tend to increase the cost per landed fish more than the preferred sub-alternative. The Council rejected all of the other fishing year alternatives because they were inferior to the preferred alternative in minimizing regulatory discards of black sea bass. The preferred alternative will minimize the amount of regulatory discards by allowing the harvest of black sea bass at the same time as that of co-occurring snapper-grouper species.

Two alternatives, including the preferred alternative, and five sub-alternatives, including the preferred sub-alternative, were considered for modifying the commercial trip limit for gag. Only one other alternative, the no action alternative, would retain the 1,000 lb (454 kg), trip limit for gag throughout the fishing year. The other trip limits considered to be implemented when 75 percent of the gag commercial ACL is landed were the following: 100 lb (45 kg); 200 lb (90 kg); 300 lb (136 kg); and 400 lb (180 kg). Cost per landed fish would be lower under the no action alternative than under the preferred alternative, potentially resulting in higher vessel profit per trip. The Council rejected this alternative because it would lead to a shorter fishing season for gag and thus presents a higher potential to increase discards of gag when vessels fish for co-occurring snapper-grouper species. The other trip limits are lower than the preferred alternative so they would tend to increase the cost per landed fish and might lower vessel profit per trip.

Four alternatives, including the preferred alternative, were considered for modifying the recreational AM for vermilion snapper. The first alternative, the no action alternative, would prohibit the recreational harvest of vermilion snapper after recreational landings reach or are projected to reach the recreational ACL and vermilion snapper are overfished. In addition, this alternative would require a payback equal to the amount of the recreational ACL overage if recreational landings exceed the ACL, regardless of the status of the stock. The second alternative differs from the no action alternative only by not considering the status of the stock when imposing the in-season AM. The third alternative differs from the no action alternative by not considering stock status when imposing the in-season AM and removing the payback provision. Because vermilion snapper is

no longer overfished, the various alternatives would have the same in-season economic effects. In the event of a recreational ACL overage, relative to the preferred alternative, the first and second alternatives would likely result in profit reductions because paybacks are made regardless of stock status; whereas, the third alternative would likely result in less adverse economic effects as it would not require paybacks. While the recreational sector would be economically better off in the short term under the third alternative, the Council rejected this alternative because paybacks are deemed necessary to prevent overfishing of the vermilion stock.

The Council also considered three alternatives to modify the commercial fishing season for vermilion snapper, of which they chose the no action alternative. The no action alternative would maintain the split of the commercial fishing year, with January through June as the first season and July through December as the second season. The commercial ACL is currently split equally between the two seasons. The second alternative, with three sub-alternatives, would retain the split of the fishing year, with 100 percent of the new ACL implemented through Regulatory Amendment 18 to the FMP applied to the second season (78 FR 47574, August 6, 2013). The three sub-alternatives would set the start date of the second season to either July 1, June 1, or May 1. The third alternative, with three sub-alternatives, would retain the split of the fishing year, with 25 percent of the new ACL (Regulatory Amendment 18) applied to the first season and 75 percent to the second season. The three sub-alternatives would set the start date of the second season to either July 1, June 1, or May 1. The Council chose the no action alternative as their preferred alternative because they considered it as the best choice among the fishing year alternatives to minimize regulatory discards of vermilion snapper by those that fish for co-occurring snapper-grouper species.

An item contained in this rule that is not part of Regulatory Amendment 14 is the removal of the requirement that all other SASWG are prohibited from harvest when the gag commercial ACL is met or projected to be met. This action was inadvertently left out of the final rule implementing Regulatory Amendment 15 to the FMP (78 FR 49183, August 13, 2013). The economic consequences of this action were previously analyzed in Regulatory Amendment 15.

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as small entity compliance guides. As part of the rulemaking process, NMFS prepared a fishery bulletin, which also serves as a small entity compliance guide. The fishery bulletin will be sent to all interested parties.

List of Subjects in 50 CFR Part 622

Black sea bass, Fisheries, Fishing, Gag, Greater amberjack, South Atlantic, Snapper-Grouper, Vermilion snapper.

Dated: November 4, 2014.

Samuel D. Rauch III,

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 OF MEXICO, 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 § 622.7, paragraphs (d) and (e) are revised to read as follows:

§ 622.7 Fishing years.

* * * * *

(d) *South Atlantic greater amberjack*—March 1 through the end of February.

(e) *South Atlantic black sea bass recreational sector*—April 1 through March 31. (Note: The fishing year for the commercial sector for black sea bass is January 1 through December 31).

■ 3. In § 622.190, paragraph (a)(5) is revised and paragraph (c)(1)(iii) is removed to read as follows:

§ 622.190 Quotas.

* * * * *

(a) * * *

(5) *Black sea bass.* (i) For the 2014, 2015, and 2016 fishing years—661,034 lb (299,840 kg), gutted weight; 780,020 lb (353,811 kg), round weight.

(ii) For the 2017 fishing year and subsequent fishing years—640,063 lb (290,328 kg), gutted weight; 755,274 lb (342,587 kg), round weight.

* * * * *

■ 4. In § 622.191, paragraphs (a)(7) and (8) are revised to read as follows:

§ 622.191 Commercial trip limits.

* * * * *

(a) * * *

(7) *Gag.* (i) Until 75 percent of the quota specified in § 622.190(a)(7) is reached—1,000 lb (454 kg), gutted weight, 1,180 lb (535 kg), round weight.

(ii) After 75 percent of the quota specified in § 622.190(a)(7) is reached or projected to be reached—500 lb (227 kg), gutted weight, 590 lb (268 kg), round weight. When the conditions in this paragraph (a)(7)(ii) have been met, the Assistant Administrator will implement this trip limit change by filing a notification with the Office of the Federal Register.

(iii) See § 622.190(c)(1) for the limitations regarding gag after the quota is reached.

(8) *Black sea bass.* (i) *Hook-and-line component.* (A) From January 1 through April 30, until the applicable quota specified in § 622.190(a)(5) is reached—300 lb (136 kg), gutted weight; 354 lb (161 kg), round weight.

(B) From May 1 through December 31, until the applicable quota specified in § 622.190(a)(5) is reached—1,000 lb (454 kg), gutted weight; 1,180 lb (535 kg), round weight.

(ii) *Sea bass pot component.* From May 1 through October 31, until the applicable quota specified in § 622.190(a)(5) is reached—1,000 lb (454 kg), gutted weight; 1,180 lb (535 kg), round weight. See § 622.183(b)(6) regarding the November 1 through April 30 seasonal closure of the commercial black sea bass pot component of the snapper-grouper fishery.

(iii) See § 622.190(c)(1) for the limitations regarding black sea bass after the applicable quota is reached.

* * * * *

■ 5. In § 622.193, paragraphs (e)(2) and (f)(2)(i) and (ii) are revised to read as follows:

§ 622.193 Annual catch limits (ACLs), annual catch targets (ACTs), and accountability measures (AMs).

* * * * *

(e) * * *

(2) *Recreational sector.* The recreational ACL for black sea bass is 876,254 lb (397,462 kg), gutted weight, 1,033,980 lb (469,005 kg), round weight for the 2013–2014, 2014–2015, and 2015–2016 fishing years and 848,455 lb (384,853 kg), gutted weight, 1,001,177 lb (454,126 kg), round weight for the 2016–2017 fishing year and subsequent fishing years. NMFS will project the length of the recreational fishing season based on when NMFS projects the recreational ACL specified in this paragraph is expected to be met and announce the recreational fishing

season end date in the **Federal Register** prior to the start of the recreational fishing year on April 1. On and after the effective date of the recreational closure notification, the bag and possession limit for black sea bass in or from the South Atlantic EEZ is zero. This bag and possession limit applies in the South Atlantic on board a vessel for which a valid Federal charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, *i.e.* in state or Federal waters.

* * * * *

(f) * * *

(2) *Recreational sector.* (i) If recreational landings, as estimated by the SRD, reach or are projected to reach the applicable recreational ACL specified in paragraph (f)(2)(iv) of this section the AA will file a notification with the Office of the Federal Register to close the recreational sector for vermilion snapper for the remainder of the fishing year. On and after the effective date of such notification, the bag and possession limit for vermilion snapper in or from the South Atlantic EEZ is zero. This bag and possession limit also applies in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, *i.e.*, in state or Federal waters.

(ii) If the combined vermilion snapper commercial and recreational landings exceed the combined vermilion snapper ACLs specified in paragraphs (f)(1) and (f)(2)(iv) of this section, and vermilion snapper are overfished, based on the most recent Status of U.S. Fisheries Report to Congress, the AA will file a notification with the Office of the Federal Register, at or near the beginning of the following fishing year to reduce the recreational ACL for that following year by the amount of the recreational overage in the prior fishing year.

* * * * *

[FR Doc. 2014-26501 Filed 11-6-14; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 130903775-4276-02]

RIN 0648-XD603

Fisheries of the Northeastern United States; Atlantic Mackerel, Squid, and Butterfish Fishery; Notification of Butterfish Quota Transfer

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

ACTION: Temporary rule; inseason adjustment.

SUMMARY: NMFS transfers quota to the 2014 butterfish domestic annual harvest allocation from the butterfish mortality cap on the longfin squid fishery in order to prevent an overage of the directed butterfish fishery. This action complies with the 2014 specifications and management measures for the Atlantic Mackerel, Squid and Butterfish Fishery Management Plan.

DATES: Effective November 3, 2014, through December 31, 2014.

FOR FURTHER INFORMATION CONTACT: Aja Szumylo, Fishery Policy Analyst, (978) 281-9195.

SUPPLEMENTARY INFORMATION:

Regulations governing the butterfish fishery are found at 50 CFR part 648. The regulations require annual specification of the overfishing limit, acceptable biological catch (ABC), annual catch limit (ACL), domestic harvest and processing (DAH and DAP), and butterfish mortality cap on the longfin squid fishery. The 2014 butterfish DAH for the directed butterfish fishery was set at 3,200 mt, and the butterfish mortality cap on the longfin squid fishery was set at 3,844 mt (79 FR 18834, April 4, 2014). The regulations allow NMFS to transfer up to 50 percent of any unused butterfish allocation from the butterfish mortality cap allocation to the butterfish domestic annual harvest (DAH) if harvest of butterfish in the directed butterfish fishery is likely to exceed the DAH, and provided the transfer of butterfish from the butterfish mortality cap allocation does not increase the likelihood of closing the longfin squid fishery due to the harvest of the butterfish mortality cap. When such a determination is made, NMFS is required to publish a notification in the **Federal Register** to adjust the butterfish DAH and butterfish mortality cap.

NMFS has determined that only 12 percent of the butterfish mortality cap has been harvested as of October 30, 2014, that 86 percent of the butterfish DAH has been harvested, and that the butterfish mortality cap will not be exceeded if 50 percent of the allocation is transferred to the butterfish DAH. Therefore, effective immediately, 1,900 mt will be transferred from the butterfish mortality cap to the butterfish DAH in order to prevent a DAH overage, and to allow for the continued operation of the directed butterfish fishery. The adjusted butterfish mortality cap on the longfin squid fishery is 1,984 mt, and the adjusted butterfish DAH is 5,100 mt. The three-phase management system for butterfish still applies to the directed butterfish fishery, meaning that, during November and December, the fishery will move to phase 2 (*i.e.*, the possession limit for the directed fishery will be reduced to 5,000 mt for vessels fishing with greater than 3 inch (76 mm) mesh) when the butterfish harvest reaches 82 percent of the DAH (4,182 mt). Similarly, the closure threshold for the butterfish mortality cap on the longfin squid fishery would still apply, meaning that the directed longfin squid fishery would be closed if butterfish discards reach 1,885 mt (95 percent of the 1,984 mt butterfish mortality cap).

Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

The Assistant Administrator for Fisheries, NOAA (AA), finds good cause pursuant to 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment because it is impracticable and contrary to the public interest. This action increases the butterfish DAH by 1,900 mt (from 3,200 mt to 5,100 mt) through December 31, 2014. The regulations at § 648.24(c)(5) allow for a transfer of allocation from the butterfish mortality cap to the butterfish DAH to allow for efficient utilization of the butterfish resource. The butterfish fishing year extends from January 1 to December 31. Data indicate that, as of October 30, 2014, 86 percent of the butterfish DAH has been harvested. For the month of October, vessels participating in the directed butterfish fishery have been able to harvest an average of 51,000 lb (19 mt) per day, or close to 350,000 lb (131 mt) per week. The longfin squid fishery has harvested butterfish discards, which count against the butterfish mortality cap, at a very slow rate this year. As of October 30, 2014, only 12 percent of the butterfish mortality cap on the longfin squid fishery has been harvested,