

cartridges in checked baggage in addition to the currently authorized flammable aerosols when stowed in inaccessible cargo compartments on passenger-carrying aircraft.

#### Butane-Powered Curling Iron Articles

As previously stated, 49 CFR 175.10 prescribes certain conditional exceptions to the HMR for passengers, crewmembers, and air operators for hazardous materials contained in their carry-on (including on one's person) and checked baggage. In paragraph (a)(6), hair curlers (curling irons), containing a hydrocarbon gas such as butane, are excepted from the requirements of the HMR in checked baggage. *Flammable gas refills for such curlers are not permitted in carry-on or checked baggage.* (emphasis added).

In an NPRM published January 23, 2015 (80 FR 3836; [HM-218H]), PHMSA is considering prohibiting butane-powered curling iron articles in checked baggage. We believe the risk posed by flammable gases in an inaccessible compartment on a passenger-carrying aircraft is clear. Flammable gases will burn if mixed with an appropriate amount of air and confined burning of a flammable gas can lead to detonation. As a result, we remain concerned with the flammability hazard posed by butane and other flammable gases and the ability of such gases to propagate or contribute to a fire in the cargo compartment of an aircraft. This concern is particularly relevant to carriage in checked baggage, where damage to the curling iron and the subsequent release of a flammable gas may occur if the baggage is mishandled or the article itself is compromised.

#### Conclusion

Because of the risks posed by flammable gas, a number of safety requirements apply to cargo shipments of flammable gas on passenger-carrying aircraft. As previously stated, most Division 2.1 (flammable gas) substances and articles are generally forbidden from transportation as cargo aboard passenger-carrying aircraft, and PHMSA's proposal to prohibit the carriage of butane-powered curling irons in checked baggage is consistent with this provision. In the area of aviation safety, where the high volume of travel and the catastrophic consequences of failure lead to a very low tolerance for risk, we firmly believe the known risks of flammable gas are sufficient basis for our decision.

We remain concerned with the flammability hazard posed by butane and other flammable gases and the ability of such gases to propagate or contribute to a fire in an inaccessible cargo compartment of a passenger-carrying aircraft. Moreover, in light of the well-established risks related to flammable gas and the long-standing prohibition of most flammable gas on passenger-carrying aircraft, PHMSA will continue to prohibit fuel cell cartridges that contain a class 2.1 flammable gas from being placed in checked baggage.

**Magdy El-Sibaie,**

*Associate Administrator for Hazardous Materials Safety.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 622

[Docket No. 140501394-5279-02]

**RIN 0648-BE20**

#### Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery Off the Southern Atlantic States; Amendment 32

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

**ACTION:** Final rule.

**SUMMARY:** NMFS issues regulations to implement Amendment 32 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP), as prepared by the South Atlantic Fishery Management Council (Council). This rule removes blueline tilefish from the deep-water complex; establishes blueline tilefish commercial and recreational sector annual catch limits (ACLs) and accountability measures (AMs); revises the deep-water complex ACLs and AMs; establishes a blueline tilefish commercial trip limit; and revises the blueline tilefish recreational bag limit. The purpose of this rule is to specify ACLs and AMs for blueline tilefish to end overfishing of the stock and maintain catch levels consistent with achieving optimum yield (OY) for the blueline tilefish resource.

**DATES:** This rule is effective March 30, 2015.

**ADDRESSES:** Electronic copies of Amendment 32, which includes an environmental assessment, a Regulatory Flexibility Act (RFA) analysis, and a regulatory impact review, may be obtained from the Southeast Regional Office Web site at [http://sero.nmfs.noaa.gov/sustainable\\_fisheries/s\\_atl/sg/2014/am32/index.html](http://sero.nmfs.noaa.gov/sustainable_fisheries/s_atl/sg/2014/am32/index.html).

**FOR FURTHER INFORMATION CONTACT:** Rick DeVictor, telephone: 727-824-5305, or email: [rick.devictor@noaa.gov](mailto:rick.devictor@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The blueline tilefish is a species included in the snapper-grouper fishery of the South Atlantic, and the fishery 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).

On December 19, 2014, NMFS published a notice of availability for Amendment 32 and requested public comment (79 FR 75780). On January 22, 2015, NMFS published a proposed rule for Amendment 32 and requested public comment (80 FR 3207). The proposed rule and Amendment 32 outline the rationale for the actions contained in this final rule. A summary of the actions implemented by Amendment 32 and this final rule is provided below.

A benchmark assessment for the blueline tilefish stock in the South Atlantic was conducted through the Southeast, Data, Assessment, and Review (SEDAR) process in 2013 (SEDAR 32). The assessment determined that the blueline tilefish stock is undergoing overfishing in the South Atlantic. NMFS published an emergency rule on April 17, 2014 (79 FR 21636), that implemented temporary measures to reduce overfishing of blueline tilefish while Amendment 32 was under development. Those measures were extended through a temporary rule (79 FR 61262, October 10, 2014), and are effective through April 18, 2015. The temporary measures of the emergency action include the following: Removal of blueline tilefish from the deep-water complex, specification of sector ACLs and AMs for blueline tilefish, and revision to the deep-water complex ACL to reflect the removal of blueline tilefish from the complex. Unless otherwise noted, all weights in this rule are expressed in round weight.

### Management Measures Contained in This Final Rule

#### *Removal of Blueline Tilefish From the Deep-Water Complex*

This final rule removes blueline tilefish from the deep-water complex. In 2012, the Comprehensive ACL Amendment established a deep-water complex that contained the following eight species: Blueline tilefish, yellowedge grouper, silk snapper, misty grouper, queen snapper, sand tilefish, black snapper, and blackfin snapper (77 FR 15916, March 16, 2012).

As a result of blueline tilefish being assessed through SEDAR 32 and the Council's Scientific and Statistical Committee (SSC) providing an assessment-based acceptable biological catch (ABC) recommendation for blueline tilefish, the Council decided to remove blueline tilefish from the deep-water complex and establish individual ACLs and AMs for the blueline tilefish stock. Amendment 29 to the FMP, which was approved by the Secretary of Commerce on February 20, 2015, revised the deep-water complex ABC, and Amendment 32 then revised the deep-water complex commercial and recreational ACLs.

#### *Blueline Tilefish Commercial and Recreational ACLs and AMs*

This final rule implements blueline tilefish commercial and recreational ACLs to end overfishing of the stock. The total ACLs (combined commercial and recreational ACLs, equivalent to a total ACL) for blueline tilefish are set at 35,632 lb (16,162 kg) for 2015, 53,457 lb (24,248 kg) for 2016, 71,469 lb (32,418 kg) for 2017, and 87,974 lb (39,904 kg) for 2018, and subsequent fishing years. Based on the sector allocations of 50.07 percent and 49.93 percent for the commercial and recreational sectors, the commercial ACLs are set at 17,841 lb (8,093 kg) for 2015, 26,766 lb (12,141 kg) for 2016, 35,785 lb (16,232 kg) for 2017, and 44,048 lb (19,980 kg) for 2018, and subsequent fishing years. The recreational ACLs are set at 17,791 lb (8,070 kg) for 2015, 26,691 lb (12,107 kg) for 2016, 35,685 lb (16,186 kg) for 2017, and 43,925 lb (19,924 kg) for 2018, and subsequent fishing years.

This final rule implements commercial and recreational in-season AMs for blueline tilefish. If commercial or recreational landings for blueline tilefish reach or are projected to reach the applicable ACL, then the commercial or recreational sector, as applicable, would be closed for the remainder of the fishing year. The recreational sector would not have an

in-season closure if the Regional Administrator (RA) determines, using the best scientific information available, that a closure would be unnecessary.

Additionally, if the total ACLs are exceeded in a fishing year, then during the following fishing year the commercial and recreational sectors will not have an increase in their respective ACLs.

This rule also implements post-season ACL overage adjustments (paybacks) for blueline tilefish. For the commercial sector, if commercial landings exceed the commercial ACL, and the total ACL is exceeded, and blueline tilefish are overfished, then during the following fishing year the commercial ACL would be reduced for that following year by the amount of the commercial ACL overage in the prior fishing year. For the recreational sector, if recreational landings for blueline tilefish exceed the applicable recreational ACL, and the total ACL is exceeded, and blueline tilefish are overfished, then the length of the recreational fishing season in the following fishing year would be reduced to ensure recreational landings do not exceed the recreational ACL the following fishing year. Additionally, the recreational ACL would be reduced by the amount of the recreational ACL overage from the prior fishing year. However, the recreational fishing season and recreational ACL would not be reduced if the RA determines, using the best scientific information available that no reduction is necessary.

#### *Additional Blueline Tilefish Management Measures*

This final rule implements a commercial trip limit of 100 lb (45 kg), gutted weight; 112 lb (51 kg), round weight, and revises the recreational bag limit for blueline tilefish. The recreational bag limit within the aggregate grouper and tilefish bag limit is set at one per vessel per day for the months of May through August. There is no retention of blueline tilefish by the recreational sector from January through April and from September through December each year.

#### *Deep-Water Complex Commercial and Recreational ACLs and AMs*

This final rule revises the ACLs and AMs for the deep-water complex (composed of yellowedge grouper, silk snapper, misty grouper, queen snapper, sand tilefish, black snapper, and blackfin snapper). This rule changes the deep-water complex total ACL (both sectors without blueline tilefish but with the increased catch levels for silk snapper and yellowedge grouper

resulting from their increased ABCs in Amendment 29), to 170,278 lb (77,237 kg). Additionally, this rule establishes sector-specific ACLs for the deep-water complex based on the allocations for species in the deep-water complex that were established in the Comprehensive ACL Amendment (77 FR 15916, March 16, 2012). The commercial ACL for the complex is set at 131,634 lb (59,708 kg) and the recreational ACL for the complex is set at 38,644 lb (17,529 kg).

This final rule revises the AMs for the deep-water complex including the commercial post-season AM and the recreational AMs. The commercial post-season AM is revised as follows: If commercial landings exceed the commercial ACL, and the combined commercial and recreational ACL (total ACL) is exceeded, and at least one species in the deep-water complex is overfished, then during the following fishing year the complex commercial ACL would be reduced for that following year by the amount of the complex's commercial ACL overage in the prior fishing year.

The recreational post-season AM is revised as follows: For the recreational sector, if recreational landings for the deep-water complex exceed the applicable recreational ACL, and the combined commercial and recreational ACL is exceeded, and at least one species in the complex is overfished, then the length of the recreational fishing season in the following fishing year would be reduced to ensure recreational landings do not exceed the recreational ACL the following fishing year. Additionally, the recreational ACL would be reduced by the amount of the recreational ACL overage from the prior fishing year. However, the recreational fishing season and recreational ACL would not be reduced if the RA determined, using the best scientific information available, that no reduction is necessary.

#### **Additional Measures Contained in Amendment 32**

Amendment 32 also contains actions that are not specified in the regulations. Amendment 32 revises the definitions of management thresholds for South Atlantic blueline tilefish, including maximum sustainable yield (MSY), OY, and ABC, and establishes recreational annual catch targets (ACTs) for blueline tilefish and revises the ACTs for the deep-water complex.

## Comments and Responses

A total of 76 comments were received on Amendment 32 and the proposed rule from fishers, a fishing association, and a Federal agency. All of the public comments received were against the proposed actions, with the exception of the comment letter from a Federal agency that had no comment. Specific comments related to the actions contained in Amendment 32 and the proposed rule, and NMFS' respective responses, are summarized and responded to below.

*Comment 1:* The proposed ACLs are too low. Higher ACLs should be implemented or the ABC and ACLs should be returned to the levels in place before the emergency rule was implemented.

*Response:* NMFS disagrees that the ACLs being implemented in this final rule are too low. A benchmark assessment for the blueline tilefish stock in the South Atlantic was conducted in 2013 (SEDAR 32). At its October 2013 meeting, the Council's SSC determined the 2013 stock assessment was based on the best scientific information available and considered the assessment to be appropriate for management decisions.

The assessment determined that the blueline tilefish stock is undergoing overfishing in the South Atlantic. As required by the Magnuson-Stevens Act, the Council must therefore implement measures to end overfishing within 2 years of notification of an overfishing status, and NMFS notified the Council of the blueline tilefish stock status on December 6, 2013. If the Council and NMFS allow the ACLs to return to levels in place prior to the emergency rule, overfishing of the blueline tilefish stock would continue.

The ACLs in Amendment 32 are based on the stock assessment and the Council's SSC recommendation for the ABC. In Amendment 32, the Council decided to set the total (stock) ACL at 98 percent of the ABC to account for landings that occur north of the Council's area of jurisdiction. As estimated in SEDAR 32, using data through 2011, approximately 2 percent of the total blueline tilefish harvest was landed north of the North Carolina/Virginia border. NMFS, the Council, and the Mid-Atlantic Fishery Management Council are aware of recent reports of increased landings north of the Council's area of jurisdiction and are considering measures to address the issue.

*Comment 2:* Beginning in 2015, North Carolina has been requiring catch reports from all for-hire vessels in North

Carolina. The Council should wait one more year before taking action in Amendment 32 to allow the incorporation of the information from the North Carolina for-hire catch reports.

*Response:* The Council and NMFS cannot delay the actions in Amendment 32 to end overfishing of blueline tilefish to include new information being developed in North Carolina beginning in 2015. As required by the Magnuson-Stevens Act, the Council must implement measures to end overfishing within 2 years of notification of an overfishing status, and NMFS notified the Council of the blueline tilefish stock status on December 6, 2013. The next blueline tilefish stock assessment is scheduled to begin in 2016. That assessment will evaluate the available scientific information, including the new for-hire catch reports.

*Comment 3:* The proposed blueline tilefish recreational bag limit of one per vessel per day from May to August is too low. Implement higher bag limits or retain blueline tilefish in the three fish per person per day grouper and tilefish aggregate bag limit.

*Response:* NMFS disagrees that the recreational bag limit being established in this final rule is too low. To end overfishing of the blueline tilefish stock in the South Atlantic, the Council and NMFS are implementing blueline tilefish specific ACLs and AMs. One of the recreational AMs is to close the recreational season when the recreational ACL is met or projected to be met. If a higher bag limit were to be implemented, the likelihood of an ACL overage would increase as landings could exceed the recreational ACL before NMFS could close the recreational sector.

A recreational bag limit of one blueline tilefish per vessel per day and an 8-month annual closure was determined to be most likely to end overfishing, reduce recreational harvest, and potentially reduce blueline tilefish discards if blueline tilefish are targeted less during the open season as a result of the reduced bag limit. The Council determined that the shortened summer seasonal opening could provide increased stability to recreational fishers for planning purposes as it could minimize the risk of an in-season closure and the recreational ACL being exceeded, which may require post-season AMs in the following fishing year. In addition, the Council determined that an opening during the summer months could increase safety-at-sea by allowing fishing to occur in the generally calmer summer weather

compared to a January 1 season opening during the winter. The recreational bag limit and seasonal closure for the blueline tilefish recreational sector would match what is being proposed by the Council for snowy grouper through Regulatory Amendment 20 to the FMP. The Council determined that similar recreational management measures and fishing seasons would be beneficial to the fish stocks as both species are caught at similar depths and have similar high release mortality rates.

*Comment 4:* The blueline tilefish commercial trip limit should be 1,000 lb (450 kg) instead of 100 lb (45 kg).

*Response:* NMFS disagrees that the commercial trip limit should be 1,000 lb (450 kg). The commercial ACL implemented by this rule in 2015 is 17,841 lb (8,093 kg), round weight with a commercial trip limit of 100 lb (45 kg), gutted weight. The commercial AM implemented by this rule is to close the commercial sector when the commercial ACL is met or projected to be met. It is estimated that the combination of the commercial ACL, AM, and trip limit will create a commercial fishing season length of 156 days in 2015. The Council considered a range of trip limit alternatives, including those greater than 100 lb (45 kg). A 1,000-lb (450-kg) trip limit would be likely to greatly reduce the length of the commercial fishing season and increase the likelihood of a derby (race-to-fish) fishery occurring. The Council determined, after reviewing the analysis of the estimated season length, that a trip limit of 100 lb (45 kg), gutted weight, best meets the purpose of ending overfishing while extending the commercial fishing season and minimizing the adverse effects of a derby fishery.

*Comment 5:* The commercial ACL should be divided 50/50 between the longline and hook-and-line gear components.

*Response:* The Council did not consider dividing the blueline tilefish commercial ACL into separate ACLs for long-line and hook-and-line gear for the commercial sector in Amendment 32. Therefore, in Amendment 32, the commercial ACL is not further divided by gear type.

*Comment 6:* Is blueline tilefish overfished and if not, is Amendment 32 legally credible? If blueline tilefish are not overfished, haven't the Council and NMFS already legally ended overfishing as required by law?

*Response:* The blueline tilefish stock is not overfished but it is undergoing overfishing. Overfishing occurs whenever a stock is subjected to a rate or level of fishing mortality that jeopardizes the capacity of a stock to produce MSY. A stock is overfished when its size is sufficiently small that a change in management practices is required to achieve an appropriate level and rate of rebuilding.

Based on the SEDAR 32 assessment conducted in 2013, NMFS determined that the blueline tilefish stock in the South Atlantic is experiencing overfishing and notified the Council of the stock status on December 6, 2013. At the time, NMFS also notified the Council that the stock was overfished according to the definition of the minimum stock size threshold (MSST). However, since that notification, the Council re-defined the MSST for blueline tilefish and other fish with low natural mortality rates in Regulatory Amendment 21 to the FMP, and blueline tilefish is no longer overfished (79 FR 60379, October 7, 2014). Even though the stock is not overfished, NMFS and the Council must still prepare and implement a plan amendment and regulations to end overfishing of blueline tilefish by December 6, 2015.

*Comment 7:* The South Atlantic exclusive economic zone (EEZ) should be divided into separate management zones for the Florida Keys and North Carolina. Overfishing is not occurring throughout the entire EEZ and catches should only be limited in the areas where overfishing is occurring.

*Response:* The Council did not consider regional management zones for blueline tilefish in Amendment 32. The SEDAR 32 stock assessment indicated that blueline tilefish in the South Atlantic is undergoing overfishing throughout the entire South Atlantic and not just for certain areas within the South Atlantic.

The Council has discussed dividing the South Atlantic EEZ into management areas, such as by state or region, several times in reference to various fish species. The Council may revisit these issues and explore such options in the future.

#### 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 Amendment 32, 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.

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.

In compliance with section 604 of the RFA, NMFS prepared a Final Regulatory Flexibility Analysis (FRFA) for this final rule. The FRFA uses updated information, when available, and analyzes the anticipated economic impacts of the final actions and any significant economic impacts on small entities. The FRFA follows.

The description of the action, why it is being considered and the legal basis for the rule are contained in the preamble of the proposed rule and in the preamble of this final rule. Section 604(a)(2) of the Regulatory Flexibility Act requires NMFS to summarize significant issues raised by the public in response to the IRFA, a summary of the assessment of such issues, and a statement of any changes made as a result of the comments. None of the public comments received specifically concerned the IRFA; however, NMFS received several comments regarding regional differences in recreational for-hire (charter vessel or headboat) fishing businesses indirectly affected by the proposed vessel recreational bag limit and economic impacts of that limit on those businesses.

Several comments did not support the change of the recreational bag limit for blueline tilefish. Presently, an angler can land and possess up to three blueline tilefish per day, and any limit to the number of blueline tilefish landed by a for-hire fishing vessel is only limited by the number of persons on board. This final rule establishes a recreational vessel limit of one blueline tilefish per day from May through August, regardless of how many persons are onboard the vessel, and zero for all other months. Most recreational landings of blueline tilefish have occurred in North Carolina, which

indicates for-hire fishing businesses in North Carolina will experience the largest adverse indirect economic impact among the affected for-hire fishing businesses if the recreational bag limit causes demand for for-hire fishing trips to decline.

Up to 681 commercial fishing vessels operate in the snapper-grouper fishery of the South Atlantic and up to 282 of those vessels will be directly affected by this final rule. It is estimated that up to 282 businesses will be directly affected; however, the number of businesses is likely closer to 126, because 126 is the average number of vessels with blueline tilefish landings annually from 2009 through 2013. According to the Small Business Administration (SBA) size standards, a business in the finfish fishing industry (NAICS 114111) is considered a small business if it is independently owned and operated, is not dominant in its field of operation (including affiliates), and has combined annual receipts not in excess of \$20.5 million. It is estimated that all of the directly affected businesses have annual revenues less than the size standard. Consequently, up to 282, but more likely closer to 126, small commercial fishing businesses own and operate the directly affected vessels.

Anglers who catch deep-water complex species and blueline tilefish in the EEZ will be directly affected; however, anglers are not considered small entities as that term is defined in 5 U.S.C. 601(6), whether fishing from for-hire fishing, private or leased vessels. For-hire fishing vessels will be indirectly affected, and as of February 20, 2015, there are up to 1,390 for-hire fishing vessels with a Federal charter vessel/headboat permit for South Atlantic snapper-grouper that will be indirectly affected. The SBA annual receipts threshold for a for-hire fishing business is \$7 million (NAICS 487210). It is unknown how many small businesses own and operate the above 1,390 for-hire fishing vessels.

The revised commercial ACL for deep-water complex species is estimated to benefit up to 156, but more likely closer to 126, vessels annually by increasing average annual dockside revenue of each vessel by \$1,565, but more likely closer to \$1,937 (2012 dollars). If those vessels represent from 126 to 156 small businesses, the average annual benefit would be from \$1,937 to \$1,565 (2012 dollars), respectively.

The combination of the commercial ACL and in-season AM for blueline tilefish is expected to directly affect 126 vessels and will reduce average annual dockside revenue. The decrease will range from \$4,574 to \$5,390 (2012 dollars) per vessel. The commercial trip limit for blueline tilefish will reduce the average annual dockside revenue of 21 vessels with a 225-lb (102.1-kg) trip limit snapper-grouper permit by \$1,777 each and 105 vessels with an unlimited permit by \$5,990 each (2012 dollars). The decrease in average annual dockside revenue caused by the combination of the commercial ACL, AM, and trip limit for blueline tilefish will range from \$5,751 to \$11,380 (2012 dollars) per vessel and small business.

It is unknown how many of the 126 small businesses referenced above land both deep-water complex species and blueline tilefish. However, if all of the 126 small businesses that land blueline tilefish also account for all of the landings of the deep-water complex species, the annual benefit from increased landings of deep-water complex species and annual cost from decreased landings of blueline tilefish would produce a combined net loss of annual dockside revenue that ranges from \$3,814 to \$9,443 (2012 dollars) per small business.

No changes were made after publication of the proposed rule to reduce the adverse economic impacts of the rule. However, considered, but not adopted, alternatives included a smaller commercial ACL for the deep-water complex that would have increased the adverse economic impact and a larger commercial ACL and trip limit for blueline tilefish that would have reduced the direct adverse economic impacts of finfish fishing businesses. A larger trip limit, however, would decrease the likelihood that all of the estimated 126 vessels and small businesses, especially the smallest of the small, have blueline tilefish landings during the year. Considered, but not adopted, alternatives would have either increased or decreased the indirect adverse economic impact on for-hire fishing businesses.

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.

The AA finds good cause to waive the 30-day delay in effectiveness of the actions in this final rule under 5 U.S.C. 553(d)(3) because it would be contrary to the public interest. Delaying the effectiveness of this rule would be contrary to the public interest because delaying the implementation of the measures contained within this rule is likely to allow the emergency measures to lapse and overfishing of blueline tilefish to continue. The time needed for the Council to develop, approve, and submit Amendment 32 on November 13, 2014, and the required schedules of the Federal rulemaking process did not allow for additional time to be available with respect to this rule's effectiveness and the ending of the emergency measures. Blueline tilefish are currently undergoing overfishing so any delay would undermine the purpose of this rule. If the rule is not implemented immediately, NMFS will likely be required to implement more severe harvest reductions and/or implement AMs that could have greater socio-economic impacts on South Atlantic blueline tilefish fishers. Any delay in the implementation of this final rule would allow the emergency measures to lapse and would allow harvest to continue at a level that is not consistent with National Standard 1 of the Magnuson-Stevens Act. Additionally, delaying the implementation of the measures within this rule for the deep-water complex would be contrary to the public interest as the ACLs for the species within the complex are increasing and thereby this rule increases the potential benefit to fishers with respect to the revised complex ACL.

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

Blueline tilefish, deep-water complex, Fisheries, Fishing, South Atlantic, Snapper-Grouper.

Dated: March 23, 2015.

**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 § 622.183, paragraph (b)(7) is added to read as follows:

#### § 622.183 Area and seasonal closures.

\* \* \* \* \*

(b) \* \* \*

(7) *Blueline tilefish recreational sector closure.* The recreational sector for blueline tilefish in or from the South Atlantic EEZ is closed from January 1 through April 30, and September 1 through December 31, each year. During a closure, the bag and possession limit for blueline tilefish in or from the South Atlantic EEZ is zero.

■ 3. In § 622.187, paragraphs (b)(2)(iii) and (iv) are revised and paragraph (b)(2)(v) is added to read as follows:

#### § 622.187 Bag and possession limits.

\* \* \* \* \*

(b) \* \* \*

(2) \* \* \*

(iii) No more than one fish may be a golden tilefish;

(iv) No more than one fish per vessel may be a blueline tilefish; and

(v) No goliath grouper or Nassau grouper may be retained.

\* \* \* \* \*

■ 4. In § 622.191, paragraph (a)(10) is added to read as follows:

#### § 622.191 Commercial trip limits.

\* \* \* \* \*

(a) \* \* \*

(10) *Blueline tilefish.* Until the applicable ACL specified in § 622.193(z)(1)(iii) is reached or projected to be reached, 100 lb (45 kg), gutted weight; 112 lb (51 kg), round weight. See § 622.193(z)(1)(i) for the limitations regarding blueline tilefish after the commercial ACL is reached.

\* \* \* \* \*

■ 5. In § 622.193:

■ a. The suspension on paragraph (h) is lifted;

■ b. Paragraph (h) is revised;

■ c. Paragraph (z) is revised; and

■ d. Paragraph (aa) is removed.

The revisions read as follows:

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

\* \* \* \* \*

(h) *Deep-water complex (including yellowedge grouper, silk snapper, misty grouper, queen snapper, sand tilefish, black snapper, and blackfin snapper)*—

(1) *Commercial sector.* (i) If commercial landings for the deep-water complex, as estimated by the SRD, reach or are projected to reach the commercial ACL of 131,634 lb (59,708 kg), round weight, the AA will file a notification with the Office of the Federal Register to close the commercial sector for the remainder of the fishing year. On and after the effective date of such a notification, all sale or purchase of deep-water complex species is prohibited and harvest or possession of these species in or from the South Atlantic EEZ is limited to the bag and possession limits. These bag and possession limits apply 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 commercial landings exceed the ACL, and the combined commercial and recreational ACL (total ACL) specified in paragraph (h)(3) of this section, is exceeded, and at least one of the species in the deep-water complex is 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 commercial ACL for that following year by the amount of the commercial ACL overage in the prior fishing year.

(2) *Recreational sector.* (i) If recreational landings for the deep-water complex, as estimated by the SRD, are projected to reach the recreational ACL of 38,644 lb (17,529 kg), round weight, the AA will file a notification with the Office of the Federal Register to close the recreational sector for the remainder of the fishing year, unless the RA determines that no closure is necessary based on the best scientific information available. On and after the effective date of such a notification, the bag and possession limits are zero.

(ii) If recreational landings for the deep-water complex, exceed the applicable recreational ACL, and the combined commercial and recreational ACL (total ACL) specified in paragraph (h)(3) of this section is exceeded, and at least one of the species in the deep-

water complex is 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, to reduce the length of the recreational fishing season in the following fishing year to ensure recreational landings do not exceed the recreational ACL the following fishing year. When NMFS reduces the length of the following recreational fishing season and closes the recreational sector, the following closure provisions apply: The bag and possession limits for the deep-water complex in or from the South Atlantic EEZ are zero. Additionally, the recreational ACL will be reduced by the amount of the recreational ACL overage in the prior fishing year. The fishing season and recreational ACL will not be reduced if the RA determines, using the best scientific information available that no reduction is necessary.

(3) The combined commercial and recreational sector ACL (total ACL) is 170,278 lb (77,237 kg), round weight.

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(z) *Blueline tilefish*—(1) *Commercial sector.* (i) If commercial landings for blueline tilefish, as estimated by the SRD, reach or are projected to reach the applicable ACL in paragraph (z)(1)(iii) of this section, the AA will file a notification with the Office of the Federal Register to close the commercial sector for the remainder of the fishing year. On and after the effective date of such a notification, all sale or purchase of blueline tilefish is prohibited and harvest or possession of this species in or from the South Atlantic EEZ is limited to the bag and possession limits. These bag and possession limits apply 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 commercial landings exceed the ACL, and the combined commercial and recreational ACL (total ACL) specified in paragraph (z)(3) of this section is exceeded, and blueline tilefish 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 commercial ACL for that following year by the amount of the commercial ACL overage in the prior fishing year.

(iii) The applicable commercial ACLs, in round weight, are 17,841 lb (8,093 kg) for 2015, 26,766 lb (12,141 kg) for 2016,

35,785 lb (16,232 kg) for 2017, and 44,048 lb (19,980 kg) for 2018 and subsequent fishing years. The commercial ACL will not increase automatically in a subsequent fishing year if landings exceed or are projected to exceed the total ACL in the prior fishing year, as specified in paragraph (z)(3) of this section.

(2) *Recreational sector.* (i) If recreational landings for blueline tilefish, as estimated by the SRD, are projected to reach the applicable ACL in paragraph (z)(2)(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 the fishing year, unless the RA determines that no closure is necessary based on the best scientific information available. On and after the effective date of such a notification, the bag and possession limits are zero.

(ii) If recreational landings for blueline tilefish, exceed the applicable recreational ACL, and the combined commercial and recreational ACL (total ACL) specified in paragraph (z)(3) of this section, is exceeded, and blueline tilefish is 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, to reduce the length of the recreational fishing season in the following fishing year to ensure recreational landings do not exceed the recreational ACL the following fishing year. When NMFS reduces the length of the following recreational fishing season and closes the recreational sector, the following closure provisions apply: The bag and possession limits for blueline tilefish in or from the South Atlantic EEZ are zero. Additionally, the recreational ACL will be reduced by the amount of the recreational ACL overage in the prior fishing year. The fishing season and recreational ACL will not be reduced if the RA determines, using the best scientific information available that no reduction is necessary.

(iii) The applicable recreational ACLs, in round weight, are 17,791 lb (8,070 kg) for 2015, 26,691 lb (12,107 kg) for 2016, 35,685 lb (16,186 kg) for 2017, and 43,925 lb (19,924 kg) for 2018 and subsequent fishing years. The recreational ACL will not increase automatically in a subsequent fishing year if landings exceed or are projected to exceed the total ACL in the prior fishing year, as specified in paragraph (z)(3) of this section.

(3) Without regard to overfished status, if the combined commercial and recreational ACL (total ACL), as estimated by the SRD, is exceeded in a fishing year, then during the following fishing year, an automatic increase will not be applied to the commercial and recreational ACLs. The RA will evaluate

the landings data, using the best scientific information available, to determine whether or not an increase in the commercial and recreational ACLs will be applied. The applicable combined commercial and recreational sector ACLs (total ACLs), in round weight are 35,632 lb (16,162 kg) for

2015, 53,457 lb (24,248 kg) for 2016, 71,469 lb (32,418 kg) for 2017, and 87,974 lb (39,904 kg) for 2018 and subsequent fishing years.

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